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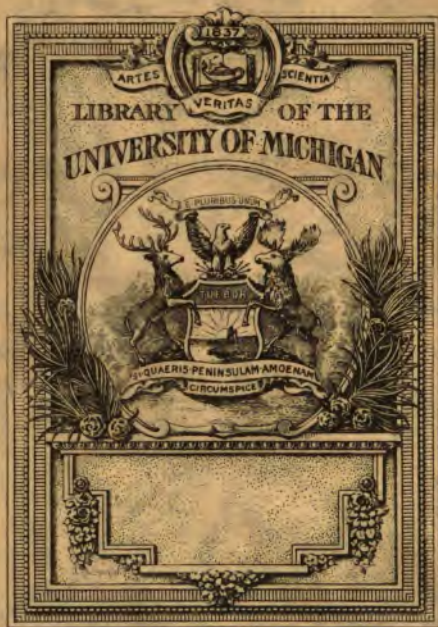
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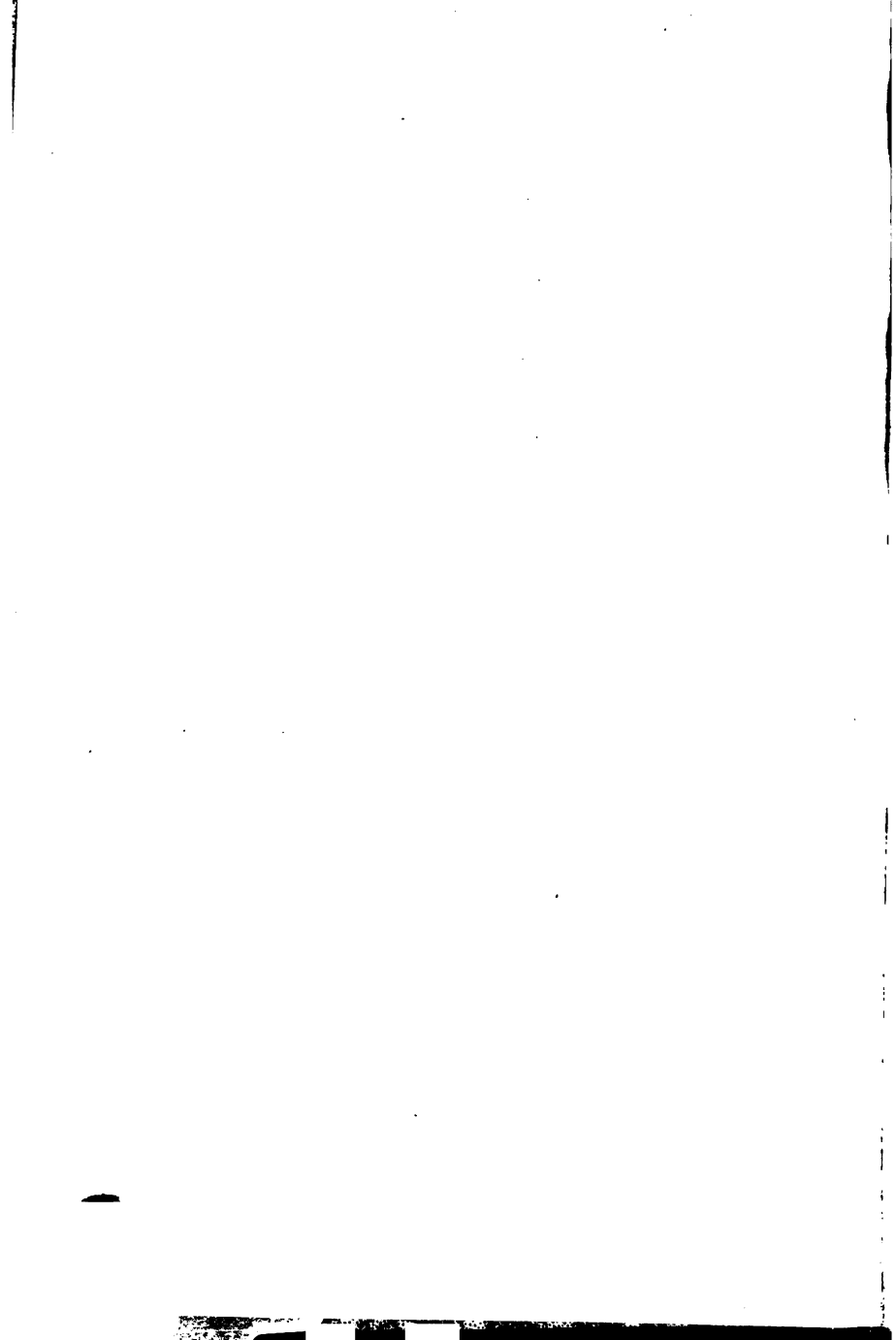
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THE
GOVERNMENT OF THE PEOPLE
OF THE STATE OF
NORTH DAKOTA

BY
H. B. WOODWORTH

PROFESSOR OF HISTORY IN THE UNIVERSITY OF NORTH DAKOTA

(REVISED EDITION.)



PHILADELPHIA
ELDREDGE & BROTHER
No. 17 North Seventh Street
1896

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"How are we governed?" "Will our rulers adopt a more just and liberal policy?" are pertinent questions for subjects under a monarchical government. But citizens of a republic will more consistently ask, "How do we govern ourselves?" "What changes shall we make in our constitutions and laws, the better to promote the common welfare?"

If the laws enacted by our representatives are not satisfactory they must be amended or repealed. The power to do this should be intelligently and conscientiously used. From this point of view the new interest in the study of Civics is a hopeful sign. But the study ought not to be confined to the study of the Constitution of the United States. Home government in the township, in the county, and in the State has more to do than the national government, in matters connected with the home, the family, and the daily life of the citizen; hence the study of local government is as important to the youth of the State as the study of the government of the Nation. If one of the practical ends of education is to fit for the duties of citizenship, this subject must find a place in the public schools. It is with the hope of making some little contribution to so desirable an object that the following chapters have been prepared.

H. B. W.

UNIVERSITY OF NORTH DAKOTA.

NOTE.

For the purpose of uniformity, the plan, the arrangement and portions of the text of this work are similar to those in other works of the series of which the book is a part.

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JOHN MILLER, FIRST GOVERNOR OF NORTH DAKOTA.

NORTH DAKOTA.



CHAPTER I.

THE EARLY HISTORY OF NORTH DAKOTA, AND ITS ORGANIZATION AS A STATE.

1. THE Territory of Dakota was a part of that vast area of land purchased by the United States from France in 1803. That portion of the country lying north of the present southern boundary of Arkansas was called the Indian Territory; in 1812 its name was changed to the Territory of Missouri. This Territory was divided into

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smaller Territories, and many new names appeared on the maps of that period. Through these changes we can trace the history of Dakota.

2. During the thirty-seven years following the establishment of the Territory of Missouri, Dakota successively came under the jurisdiction of the Territories of Michigan, Wisconsin, and Iowa, as these Territories were in turn established. In 1849, Minnesota Territory was established, and in it was included that part of Dakota east of the Missouri River. That part of Dakota west of the Missouri and White Earth Rivers was known as Mandan Territory until 1854, when the Nebraska Territory was organized, of which Mandan Territory became a part. Minnesota became a State in May, 1858, and from that time until the establishment of the territorial government in 1861 Dakota was without an organized government.

3. The Territory of Dakota was organized by act of Congress March 2, 1861. It was located between $96^{\circ} 25'$ and $104^{\circ} 5'$ longitude west from Greenwich, and between $42^{\circ} 28'$ and 49° north latitude. Its northern boundary was the line dividing the United States from the British possessions of Manitoba and Assiniboia; the States of Minnesota and Iowa lay on the east, the State of Nebraska on the south, and the Territories of Montana and Wyoming on the west. Its average extent from north to south was 430 miles, and from east to west 350 miles. It contained 150,932 square miles, or 96,596,480 acres.

4. The bill to provide a temporary government for the Territory of Dakota and to create the office of surveyor-general was signed by President Buchanan March 2, 1861.

President Lincoln, shortly after his inauguration, appointed the territorial officers.

5. The first governor, William Jaynes of Springfield, Illinois, arrived in Yankton May 27, 1861, and at this point the civil history of Dakota begins. The other territorial governors were—Newton Edmunds, appointed by

President Lincoln in 1863; Andrew J. Faulk of Pennsylvania, appointed by President Johnson in 1866; John A. Burbank of Indiana, appointed by President Grant in 1869; John L. Pennington, appointed by President Grant in 1874; William A. Howard of Vermont, appointed by President Hayes in 1878; Nehemiah G. Ordway of New Hampshire, appointed by President Hayes in 1880; Gilbert A. Pierce of New York, appointed by President Arthur in 1884; Louis K. Church of New York, appointed by President Cleveland in 1887; and Arthur C. Mellette, appointed by President Harrison in 1889.

The secretaries of the Territory were John Hutchinson, S. L. Spink, T. M. Wilkins, G. H. Batchelder, E. S. McCook, Oscar Whitney, George H. Hand, J. M. Teller, M. L. McCormack, and L. B. Richardson.

The chief justices were Philemon Bliss, Ara Bartlett, George W. French, Peter C. Shannon, A. G. Edgerton, and Bartlett Tripp.

6. The capital of Dakota was Yankton until 1883, when the seat of government was removed to Bismarck. The first session of the territorial legislature was held at Yankton, beginning March 17, 1862. The sessions were annual at first, but by an act of Congress in 1869 they were made biennial and were limited to sixty days. The legislature was composed of two houses, called the Council and the House of Representatives. There were twenty-four councilmen and forty-eight representatives.

7. The admission of new States into the Union is provided for by the Constitution of the United States, but the conditions and the mode of admission are left to be prescribed by Congress. The people of a Territory may petition to be admitted as a State, Congress may grant the petition and pass an enabling act, or an enabling act may be passed without a petition. It is not imperative upon Congress to admit a State, nor can Congress compel a Territory to become a State; but a State cannot be admitted

without the consent of Congress. Michigan, Kansas, Iowa, and Oregon were admitted without enabling acts. Texas had been an independent State before admission. California was a part of the territory ceded to the United States by Mexico in 1848, and never had a territorial government.

8. An enabling act defines the territory to be admitted by fixing its boundaries; it provides for calling a convention of the electors of the Territory to form a constitution, and for submitting the constitution so formed to popular vote; it stipulates that a republican form of government shall be established, and that the constitution adopted shall not in any manner conflict with the Constitution of the United States; it determines the number of representatives in Congress to which the State is entitled at the time of its admission; and it appropriates certain lands belonging to the United States, situated within the Territory, for the benefit of state and educational institutions.

9. The enabling act providing for the admission of North Dakota, South Dakota, Montana, and Washington was passed by Congress February 22, 1889. Omitting that part relating to Montana and Washington, the first section reads: "Be it enacted by the Senate and House of Representatives of the United States of America, in congress assembled: That the inhabitants of all that part of the area of the United States now constituting the Territory of Dakota may become the States of North Dakota and South Dakota."

10. The division of the Territory of Dakota into the States of North Dakota and South Dakota was made on the line of the seventh standard parallel extended due west from the western boundary of Minnesota to the western boundary of Dakota Territory.

By this division North Dakota is located as follows: The British provinces of Manitoba and Assiniboia are on

the north, Minnesota on the east, South Dakota on the south, and Montana on the west. It is situated about half-way between the Atlantic and Pacific Oceans, and midway between Hudson Bay and the Gulf of Mexico. Its average extent from north to south is about 210 miles, and from east to west about 360 miles. It has an area of 74,312 square miles, or 47,569,680 acres.

11. The enabling act provided that the governor of the Territory should issue a proclamation on April 15, 1889, ordering an election to be held on the Tuesday after the second Monday in May, 1889, at which election the qualified electors of that part of the Territory which it was proposed should form the State of North Dakota should choose delegates to a constitutional convention to be held at Bismarck, and the electors of that part of the Territory which it was proposed should form the State of South Dakota should choose delegates to a constitutional convention to be held at Sioux Falls.

12. The act stipulated that these conventions should declare, on behalf of the people of the proposed new States, that they adopted the Constitution of the United States. They were then authorized to form state constitutions and state governments, which should be republican in form and which should not violate the Constitution of the United States or the principles of the Declaration of Independence. It required that they should provide, by ordinances irrevocable without the consent of the United States and the people of said States, "for the perfect toleration of religious sentiment and freedom of worship; that the people should disclaim all right and title to unappropriated public lands within the boundaries of the proposed States; that all debts and liabilities of the Territory should be assumed by the proposed new States; that provision should be made for establishing and maintaining a system of public schools which should be open to all children of the State and free from sectarian control; that the constitutions formed by

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the conventions should provide that property belonging to non-residents should not be taxed at a higher rate than that belonging to residents; that property within the States belonging to the United States should never be taxed; and that a commission should be appointed by the conventions to make an equitable division of the property of the Territory, of its records, and of its debts."

13. The act provided that the constitution framed by the conventions should be submitted to the people on the first Tuesday in October, 1889; that a governor and all other state officers, members of the state legislature, and a representative to Congress might be elected on the same day, the officers elected to remain in abeyance until the State should be admitted into the Union; that if the constitution should be adopted by a majority vote of the electors, the governor should report the result, with a copy of the constitution, to the President of the United States, who should examine the same, and if it was found that the provisions of the enabling act had been complied with, and that the government of the proposed new State was republican in form, the President should issue a proclamation declaring the result, and the State should be deemed admitted to the Union on and after the date of the proclamation.

14. The constitutional convention of North Dakota met at Bismarck July 4, 1889. The number of delegates composing the convention was seventy-five, fifty-six of whom were Republicans and nineteen Democrats.

15. It is interesting to note what different States and nations contributed to the constitution-making body: 13 delegates were born in Wisconsin, 10 in New York, 5 in Iowa, 4 in Ohio, 3 each in the States of Maine and Pennsylvania, 2 each in the States of Indiana, Minnesota, Vermont, Illinois, and Connecticut, 1 each in the States of Massachusetts, New Hampshire, New Jersey, and Michigan, making 52 born in the United States; 23 were born

in other countries—10 in Canada, 5 in Norway and Sweden, 3 in England, 3 in Scotland, and 2 in Ireland.

16. There was a difference of opinion as to whether many things should not be embraced in the organic law of the State which in most of the older state constitutions had been left to the legislature.

Governor Mellette, who was then governor of the Territory, and not a member of the convention, in a brief address said: "If you know the proper things to embrace in the constitution, the more there is in it the better. One of the greatest evils is excessive legislation—the constant change of the laws every two years, and the squabbles and debates over the different questions that constantly arise."

17. Judge T. M. Cooley of Michigan also addressed the convention, and his ideas of constitution-making differed somewhat from those of Governor Mellette. He said: "Do not, in your constitution-making, legislate too much. Leave something for the legislature. You have to trust somebody in the future, and it is right and proper that each department of government should be trusted to perform its legitimate function." Evidently the convention inclined to the advice of the governor rather than to that of the judge.

Among the questions on which there was a difference of opinion and which elicited discussion may be mentioned conditions of elective franchise; township organization; one or two houses in the legislature; prohibition; and the location of state and educational institutions.

18. An amendment providing for the registration of all legal voters was proposed and lost.

There are many who would like to see such a law on the statute-books. The purity of the ballot cannot be too watchfully and sacredly guarded.

The convention completed its work and adjourned on the forty-fifth day of its session, August 17, 1889. The constitution was submitted to the people October 1, 1889,

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and was adopted by a vote of 27,441 votes in its favor against 8107 opposing votes.

19. A statement of the result of the election, and the vote showing that the constitution formed by the convention had been adopted by the electors, together with a copy of the constitution, were sent by Governor Mellette to President Harrison, who, in a proclamation dated November 2, 1889, announced the admission of North Dakota as a State into the Union.

20. The officers chosen by the electors October 1, 1889, the day on which the constitution was adopted, were: Governor, John Miller; lieutenant-governor, Alfred Dickcy; secretary of state, John Flittie; state treasurer, Lewis E. Booker; state auditor, John P. Bray; superintendent of public instruction, William Mitchell; attorney-general, George F. Goodwin; commissioner of insurance, A. L. Carey; commissioner of agriculture, H. F. Helgesen. J. A. Percival was appointed public examiner.

The first representative in Congress was Henry C. Hansbrough.

The first judges of the state supreme court were Guy C. Corliss, chief justice, Joseph M. Bartholomew, and Alfred Wallin.

21. One of Governor Miller's first official acts was to call together the state legislature, the members of which had also been elected October 1, 1889, the day on which the constitution was adopted. The first legislature of the State of North Dakota met November 20, 1889, at Bismarck, and elected Ex-Governor Gilbert A. Pierce and Lyman R. Casey the first United States senators from the State of North Dakota.

22. North Dakota is an agricultural State, wheat being the staple product; but diversified farming is receiving more attention every year. All the small grains and vegetables are successfully grown, and it would not be surprising if some day the southern portion of the State

should claim to be in the corn belt. Stock-raising of all kinds is on the increase, and it is believed that North Dakota will eventually rank high as a wool-producing State.

23. Manufacturing interests are receiving considerable attention, and if the problem of fuel can be satisfactorily solved these industries will add materially to the prosperity of the State.

24. The undeveloped resources of the State are an important factor in solving the problem of its future growth. Among these are to be classed the culture of the sugar-beet, the development of the coal-beds, and the utilization of clay products. Careful investigations and analyses already made are encouraging and worthy of attention. Among the reports on these subjects is one made to the commissioner of agriculture and labor by Prof. E. J. Babcock, professor of chemistry in the University of North Dakota. As a result of analyses of soils and of samples of beets raised in different parts of the State, Prof. Babcock says: "So far, experiments have shown the soil and climate of North Dakota to be well suited to the culture of sugar-beets, the yield being good and the quality rich. . . . The immense beds of coal which exist in this State will afford a cheap and abundant supply of fuel, while the factories (for making the sugar) will in turn help to make a market for coal."

25. The large area in the northern and western parts of the State covered by deposits of lignite coal shows that the quantity is abundant; as to quality, Prof. Babcock says: "For general heating purposes the value of coal can usually be approximately estimated by the amount of fixed carbon it contains. The fixed carbon in North Dakota coal analyzed averages 44.71 per cent.; that of Iowa, 45.42 per cent.; that of Indiana, 51.20 per cent.; and that of Ohio, 58.10 per cent." This, in connection with the small percentage of sulphur and the charac

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of the ash, leads to the conclusion: "For general manufacturing and heating purposes, in which most of the fuel is used, the coal of North Dakota is well adapted." Therefore "the coal of North Dakota is of inestimable value to the people of the State."

26. North Dakota is abundantly supplied with a variety of clays, such as brick clay, fire clay, stoneware and white earthenware clays. A natural hydraulic cement clay has been found in the Pembina Mountain district and in Cavalier county. The proximity of the coal deposits to the finer clays will facilitate their utilization.

27. The remarkable development of this State in the short time of its occupancy by white men is due to the fertility of the soil, to the ease with which the wild land of the prairie can be turned into fruitful fields, to the excellent quality of wheat which the soil and the climate produce, and to the facilities for transportation afforded by two transcontinental lines of railroads crossing the State and sending out branches in every direction.

28. The intelligence, the enterprise, and the moral earnestness of the people utilize all these conditions of success, and have imprinted the stamp of progressive civilization on the character of the State. Valuable additions to the citizenship of our State have been made from States farther south, notably from Missouri, Kentucky, and Virginia. Generous contributions have been made by Canada and by the Scandinavian countries. Germany, England, and Ireland are well represented.

29. The public-school system of the State is excellent and is constantly improving. Opportunity for securing the advantages of a higher education is offered in the University of North Dakota at Grand Forks; in the Agricultural College at Fargo; in the normal schools at Mayville and Valley City; in the scientific school at Wahpeton; and in the industrial school for manual training at Ellendale. Graded and high schools are organized in the cities



UNIVERSITY OF THE STATE OF NORTH DAKOTA AT GRAND FORKS, N. D.

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and larger towns, and common schools are within the reach of all.



STATE AGRICULTURAL COLLEGE AT FARGO, N. D.

In addition to these there are denominational colleges and private schools, among which may be found Fargo



STATE NORMAL SCHOOL AT MAYVILLE, N. D.

College, a Congregational institution at Fargo; the Presbyterian College at Jamestown; and Red River Valley Uni-

versity, a Methodist institution at Wahpeton. The Roman Catholics have a convent and school at Fargo and at Bismarck, and an academy at Grand Forks.

These institutions have a solid basis and substantial support; connected with them are professors and teachers who are graduates of the best universities and colleges in



STATE NORMAL SCHOOL AT VALLEY CITY, N. D.

the United States, and some of whom have availed themselves of the advantages furnished by the leading institutions of Europe.

30. In accordance with the true American idea, the church accompanies the school. Vigorous churches of all denominations and an able ministry are keeping step with other forces which are rapidly developing the character of the State.

31. The people of North Dakota have a just and grateful pride in the results already attained in their new State, the character of which they are building on the home, the school, and the church. "Intelligence and virtue" are the only sure foundations of a republican government.

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Capability and trustworthiness should be the only qualifications for office. If government is "of the people, by



FARGO COLLEGE AT FARGO, N. D.

the people, and for the people," the people must be right, or all will be wrong. If public opinion is sound and right, the government of the people of North Dakota will secure the ends of justice and righteousness. The future of the State depends on the coming and succeeding generations.



THE SEAL OF THE STATE OF NORTH DAKOTA.

CHAPTER II.



THE CIVIL GOVERNMENT OF NORTH DAKOTA, AND THE DEVELOPMENT AND WORKING OF THE CON- STITUTION OF THE STATE.

THE COMMONWEALTH.

32. The Preamble to the constitution of the State recognizes the Divine Being and asserts the authority by which the constitution is ordained and established.

33. The Declaration of Rights.—The first article of the constitution is a declaration of those powers which are reserved by the people and which are not delegated to the government. These excepted powers must remain with the people as rights to be for ever inviolate.¹

¹ See *Art. I. Sect. 24*. Reference is made to the constitution to familiarize the student with the constitution itself and to lead him to seek for information at its source.

34. The Government of the State of North Dakota is vested in three departments—the legislative, the executive, and the judicial.

While these rights are expressly reserved to the people, their regulation is as expressly secured, as will appear from the following examples:

The constitution provides that all laws of a general nature shall have a uniform operation (*see Art. I. Sect. 11*), and prohibits special laws regulating the interest on money. (*See Art. II. Sect. 69, Clause 13.*)

The legislature having enacted a law exempting building and loan associations from the provisions of the general law regulating the payment of interest, it was claimed that this law was a violation of the constitution.

The state supreme court decided that "laws are uniform in operation if the benefits and burdens of such laws fall equally upon all members of the class or classes upon which they operate. The legislature has the right to classify, provided the basis of classification be natural and necessary, not artificial and arbitrary. The court holds that the law exempting building and loan associations from the provisions of the general usury law, when dealing with their own stockholders, is constitutional."

The constitution declares that "acquiring, possessing, and protecting property are inalienable rights." (*See Art. I. Sect. 1.*) The legislature having enacted a law declaring that "it shall be unlawful for any individual, firm, or corporation to transact a banking business without having complied with and organized under the provisions of this act," it was claimed that this law was a violation of the constitution.

The state supreme court decided that "the law was not a violation of the constitution, and is upheld as a proper exercise by the legislature of that branch of the internal police power of the State which relates to public safety."

The constitution prohibits special legislation in locating or changing county seats. (*See Art. II. Sect. 69, Clause 3.*) An act of the legislature relating to the removal of county seats contains the following proviso: "Provided, That nothing in this act shall permit the removal or relocation of the county seat of any county wherein the court-house and jail now erected exceed in value the sum of \$35,000." The state supreme court decided that this was class legislation, and therefore unconstitutional; the classification was not based upon natural reason, but was the arbitrary fiat of the legislature.

THE LEGISLATIVE DEPARTMENT.

35. The Legislative Power of the State is vested in the Legislative Assembly, which consists of a Senate and a House of Representatives.¹

36. The Legislative Assembly meets in the Capitol building at Bismarck.² The session may not exceed sixty days, except when a case of impeachment is being tried. The Assembly makes all the laws of the State, but it may make no laws that conflict with the Constitution of the United States or with that of the State, or they may be declared unconstitutional by the courts, and therefore null and void. The laws made by the Legislative Assembly provide for the dealings of the citizens with each other, such as making contracts and partnerships, buying and selling lands, houses, goods and property of all kinds, making mortgages, deeds, promissory notes, checks, etc.; for the organization and government of corporations, such as insurance, railroad, telegraph, telephone, and manufacturing companies; for the prevention and punishment of crime; for the establishment and support of charitable and educational institutions; for establishing and regulating courts; for the government of counties, cities, incorporated towns, villages, townships, and school districts; for the method of procedure in courts; for the qualifications of electors; and for all other matters in which the citizens of the State may have any interest. It is the duty of the Legislative Assembly to make such laws as will promote the general welfare of the people of the State.

The State is divided by the Legislative Assembly into state senatorial districts and judicial districts. Every tenth year, beginning with the year 1897, and also after

¹ See *Art. II. Sect. 25.*

² The sessions begin at noon on the first Tuesday after the first Monday in January of every odd-numbered year (1895, '97, '99, etc.).

each Federal census, the Assembly *must*, and at any regular session *may*, re-district the State into senatorial districts and determine the number of senators and representatives¹ that shall constitute the Legislative Assembly. The Assembly determines all matters connected with the taxation required to furnish the income for carrying on the government of the State, and it elects two persons to represent the State in the Senate of the United States. Members of the Assembly are paid five dollars per day as compensation for their services, and they are allowed ten cents for every mile of necessary travel in going to and returning from a session of the Assembly.

37. The Senate consists of thirty-one senators, one for each senatorial district into which the State is divided.² The senator from each district is chosen by the electors of that district to serve for four years.³ The lieutenant-governor of the State is *ex-officio* president of the Senate. He is not a member of the Senate, and has no right to vote except when the vote of the Senate is equally divided. The Senate elects one of its own members president *pro tempore*, who appoints its committees unless the Senate orders otherwise, and who acts as president when the lieutenant-governor is absent. The Senate has the sole power to try impeachments⁴ and to confirm appointments made by the governor.⁵

38. The House of Representatives consists of sixty-two members, chosen to serve for two years by the electors in the different senatorial districts into which the State is divided. Each district elects its own representatives.⁶ The House elects one of its members as presiding officer or speaker, who appoints all the committees unless the

¹ See Art. II. Sect. 35.

² See Art. II. Sect. 29.

³ See Art. II. Sect. 27.

⁴ See Art. XIV. Sect. 195.

⁵ For the qualifications of a senator, see Art. II. Sect. 28.

⁶ For the qualifications of a representative, see Art. II. Sect. 34.



THE CAPITOL BUILDING AT BISMARCK.

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House otherwise orders. The House has the sole right to institute impeachments.¹

39. How the Laws are Made.—The laws of the State are made by the Legislative Assembly, practically in the same manner as the laws of the United States are made by Congress. A bill may originate in either house of the Legislative Assembly, and, having been passed by one house, may be amended by the other house, but not so amended or altered as to change its original purpose. The bill must be read three times: on the first and third readings the entire bill must be read; at the second reading only the title of the bill need be read, unless the entire reading of the bill is demanded. The first and second readings may take place on the same day, but the third reading must be on a separate day. No bill can become a law unless it receives a majority vote of all the members of both houses; on the final passage of the bill the vote is taken by yeas and nays, and the name of each member voting, with the way he voted, is entered on the journal.

After a bill has passed both houses and has been signed by the presiding officer of each house, it is sent to the governor. If he approves it, he signs it, and the bill is then a law; if he does not approve it, he vetoes it—*i. e.* he returns it, with his objections, to the house in which it originated. If both houses re-pass the bill by a vote of two-thirds of all the members, it becomes a law without the approval of the governor. The vote in both houses is determined by yeas and nays, and the name of each member, with the way he voted, is entered on the journal of each house respectively. If any bill is not returned by the governor within three days (Sundays excepted) after it has been sent to him, it becomes a law without his approval, unless the Legislative Assembly, by its adjournment, prevent its return, in which case it becomes a law unless the governor files the bill, with his objections to it,

¹ See Art. XIV. Sect. 194.

in the office of the secretary of state within fifteen days after the adjournment of the Assembly.¹

THE EXECUTIVE DEPARTMENT.

40. The Supreme Executive Power of the State is vested in the governor.

The other executive officers are the lieutenant-governor, the secretary of state, the state auditor, the state treasurer, the superintendent of public instruction, the attorney-general, the commissioner of insurance, the commissioners of railroads, and the commissioner of agriculture and labor. These officers are all chosen by the qualified electors of the State to serve for a term of two years and until their successors are elected and qualified.²

41. The Governor.—At the commencement of each session of the Legislative Assembly the governor informs it of the condition of the State and recommends to its consideration such measures as he may deem expedient. He is the commander-in-chief of the military and naval forces of the State, except when they are called into the service of the United States, and has power to call upon them when necessary to assist in executing the laws, to repel invasion, or to suppress riots and insurrection. He has the power to convene the Legislative Assembly on extraordinary occasions; to remit fines and forfeitures, and to grant reprieves, commutations, and pardons to persons convicted of crime, for all offenses except treason and in cases of impeachment; to appoint, subject to the consent of the Senate, a number of administrative officers; to fill vacancies that may occur in any office, when no other method is provided by the constitution or by law for filling such vacancies; to veto bills passed by the Assembly that he does not approve; to disapprove and veto any item of a bill appropriating money, and to approve of other items of the same bill. All bills passed by the

¹ See Art. III. Sect. 79.

² See Art. III. Sect. 82.

Legislative Assembly that he approves, he signs, and they are then laws. It is his duty to expedite all measures that may be resolved upon by the Legislative Assembly, and to see that the laws are faithfully executed. His salary is \$3000 per annum.¹

42. The Lieutenant-Governor is *ex-officio* the president of the Senate. In case of the death, impeachment, resignation, failure to qualify, absence from the State, removal from office, or disability of the governor, the powers and duties of the governor devolve upon the lieutenant-governor for the remainder of the term, or until the governor is acquitted or his disability removed. In case of the disability from any cause of both the governor and the lieu-

¹ See Art. III. Sects. 71 to 80 inclusive.

It has been claimed that the right of the governor to appoint to office and to fill vacancies, except to offices with legislative or judicial functions, was an implied executive right. The supreme court of the State has decided otherwise. The court asserts the principle "that the appointing power is an attribute of sovereignty. The people are the sovereign power, and all governmental sovereign power has been vested by the people in the legislature, except such as is granted to other departments of the government, or expressly withheld from the legislature by the constitution."

The law provides that certain officers, such as the trustees of the state institutions, shall be appointed by and with the advice and consent of the Senate, and that persons so appointed shall continue in office a certain specified time, and until their successors shall have been duly appointed.

The term of office of two trustees of the state insane asylum expired in 1893. The governor appointed their successors, but the Senate failed to confirm them. After the adjournment of the Assembly the governor again appointed, assuming a vacancy and his right to fill it. The attempt of the appointees to qualify and to perform the duties of the office resulted in a suit. In this case the supreme court of the State decided that no vacancy existed, that actual vacancies arise only from death, resignation, etc., and that "the appointing power of the executive is confined, in filling vacancies, to cases where no other mode is provided by the constitution or by the laws."

tenant-governor, the secretary of state acts as governor.¹ The salary of the lieutenant-governor is \$1000 per annum.²

43. The Secretary of State is the custodian of the enrolled copy of the constitution of the State; of the journals and of all acts and resolutions passed by the Legislative Assembly; and of all books, records, and other documents deposited in his office according to law. He is the keeper of the seal of the State, and affixes it to all laws, commissions, pardons, and other instruments to which the official signature of the governor is required; he keeps a record of all the official acts and proceedings of the governor, and of all death-warrants, respites, commutations, and pardons; he compiles the returns of the state elections, and certifies to the governor the names of persons elected to offices the incumbents of which are commissioned by the governor; he attends every session of the Legislative Assembly, for the purpose of receiving bills and resolutions therefrom, and to perform such other duties as the Assembly may direct; he receives and makes a record of the official bonds of all state officers whose bonds are fixed by law, and delivers the original bonds to the state auditor; he distributes the public documents of the State to the state and county officers and to others who are entitled to them; he issues the charters of corporations, such as railroads, transportation, telegraph, telephone, manufacturing, and banking companies, colleges, and all other private corporations organized for business, educational, charitable, or social purposes; he attests all patents or deeds conveying title of state lands; he purchases books for the state library; he designates the papers in which are published proposed amendments to the state constitution; he publishes and distributes copies of the ballot laws pre-

¹ See *Art. III. Sects. 72, 73, 77.*

² For the qualifications of the governor and of the lieutenant-governor, see *Art. III. Sect. 73.*

scribing the manner in which elections are to be conducted; he receives and files the certificates of nomination of all candidates for State offices and for offices in divisions of the State greater than a county, and previous to the election, he certifies to the county auditors the names and places of residence of the candidates nominated for such offices; he is the agent of official communication between the State and other States and the United States. His salary is \$2000 per annum.

44. **The State Auditor** issues warrants or orders on the state treasurer for the payment of the salaries of state officers, members of the Legislative Assembly, and clerks and other employes in the state offices; he makes a quarterly report to the state superintendent of public instruction of the amount of the state tuition fund; when this fund has been apportioned to the several counties, in proportion to the number of children of the required school age, the auditor notifies each county treasurer in the State of the amount due, and issues a warrant or order drawn on the state treasurer for the payment of the same. His salary is \$2000 per annum.

45. **The State Treasurer** is required to receive and to keep in charge all money belonging to the State not otherwise provided for; to make a record of the warrants or orders drawn by the state auditor; to deliver a receipt to every person paying money into the treasury, and a duplicate receipt of the same to the state auditor; to keep a separate account of each fund in his charge; and to make a semi-annual report to the governor of all moneys received by him, of the places wherein the money is deposited, and the number and amount of every warrant paid by him during the preceding six months. He is required to give bonds to the amount of \$250,000 for the faithful performance of his duties, and is not eligible to the office for more than two consecutive terms. His salary is \$2000 per annum.

46. The Superintendent of Public Instruction has general supervision of the public schools of the State; it is the duty of this officer to counsel with and advise county superintendents in all matters involving the welfare of schools; to explain and interpret the school law; to decide appeals from the decisions of county superintendents; to prescribe rules and regulations for the government of teachers' institutes; the course of reading for teachers' reading circles; the course of study for all the public schools, and for the State normal schools; the questions to be used in the examination of applicants for teachers' certificates both county and State, and the rules for conducting such examinations; to provide the registers, reports, statements, etc., required by the schools or by school officers; to prepare a list of publications approved as suitable for district libraries; to grant State certificates authorizing the owner to teach in any of the public schools in the State, to such persons, as, on examination, may be found competent; and generally to promote the interests of the public schools. The salary of this officer is \$2000 per annum.

47. The Attorney-General is the legal adviser of the governor and of all state officers in matters of law relating to their departments; he prosecutes all claims of the State against other parties, and defends it in all suits at law brought against it. His salary is \$2000 per annum.

48. The Railroad Commissioners are three officers who exercise supervision over the railroad companies in the State. It is their duty to see that the laws of the State enacted for the regulation of railroad companies are complied with; they determine when a suit at law shall be prosecuted by the attorney-general against any railroad company for violation of any of the laws enacted for their regulation and government; and they supervise the handling, weighing, and storage of grain in warehouses and grain-elevators. Their salaries are \$2000 per annum.

49. The Commissioner of Agriculture and Labor collects and reports to the Legislative Assembly, at each session, statistics and information relating to the various departments of labor in the State, such as the number of hours of daily labor in the different industries, the amount of wages paid to operatives, the number of persons employed, the operations and effect of labor-saving machinery, the number and condition of unemployed persons, the condition and employment of the inmates of the state prison, jails, and reformatory institutions, the condition of the beet-sugar interest and other agricultural industries, etc. He is empowered to act as mediator in cases of strikes and lockouts when requested to do so by either party interested. He is *ex-officio* commissioner of immigration, dairy commissioner, and state statistician; as such it is his duty to promote immigration into the State, to exercise supervision over the dairy interests of the State, and to collect and record statistics of county, township, and municipal indebtedness, acreage of different kinds of grain, population, number of cattle, horses, etc. in the State, and other information relative to the condition and development of the State. His salary is \$1800 per annum.

50. The Commissioner of Insurance examines the condition of all insurance companies proposing to transact business within the State; he ascertains the amount of their capital and securities, and whether they have complied with the provisions of the laws regulating the organization of such companies. He receives an annual report from all insurance companies in the State, showing their exact financial condition. In case any of them violate or fail to comply with the laws of the State regulating such companies, it is his duty to see that their licenses are revoked. His salary is \$2000 per annum.¹

¹ For the qualifications of the state officers other than the governor and the lieutenant-governor, their terms of office, etc. see *Art. III. Sect. 82.*

51. Administrative Officers and Boards created either by the constitution of the State or by the Legislative Assembly assist in carrying on the work of the government of the State. These are the board of auditors, the board of capitol commissioners, the board of university and school lands, the state board of agriculture, the boards of state institutions, the state board of pharmacy, the state board of equalization, the commissioner of irrigation and forestry, the public examiner, the adjutant-general, the State board of veterinary medical examiners, the State veterinarian, and the district veterinarian.

52. The Board of Auditors consists of the secretary of state, the state auditor, and the attorney-general. It is their duty twice in each year to examine and audit the books, accounts, and vouchers of the state treasurer; to ascertain the amount of funds in the state treasury, and to report the same to the governor; and to witness the transfer of books and accounts of an outgoing treasurer to his successor.

53. The Board of Capitol Commissioners consists of the governor, the secretary of state, and the state auditor. It is their duty to superintend the completion of the construction of the capitol building.

54. The Board of University and School Lands consists of the governor, the secretary of state, the attorney-general, the state auditor, and the state superintendent of public instruction. This board has control of the selection, appraisement, management, rental, disposal, and sale of all school and public lands belonging to the State, and of the investment of the permanent funds derived therefrom. The board is empowered to appoint a general agent with the title of "commissioner of university and school lands," who attends to the general business of the board and performs such duties as may be assigned to him by the board. He is required to give a bond of \$10,000.

55. The State Board of Agriculture consists of six

persons, one from each judicial district into which the State is divided. The members of the board are appointed by the governor, with the advice and consent of the Senate, to serve for a term of two years. It is the duty of the board to take such action as will promote, encourage, and protect the agricultural, horticultural, stock-breeding, and manufacturing interests of the State.

56. The Boards of State Institutions.—The public institutions of the State are the University of North Dakota at Grand Forks, the Agricultural College at Fargo, the State Normal Schools at Mayville and Valley City, the Academy of Science at Wahpeton, the School for the Deaf and Dumb at Devil's Lake, the State Reform School at Mandan, the Soldiers' Home at Lisbon, the Penitentiary at Bismarck, the Blind Asylum at Bathgate, and the Insane Asylum at Jamestown.

For the management of each of these institutions a board of five trustees is appointed by the governor, with the advice and consent of the Senate.

57. The State Board of Pharmacy consists of three persons appointed by the governor, selected from five reputable practicing pharmacists of the State, suggested by the North Dakota Pharmaceutical Association. It is the duty of the board to examine all applicants desiring to practice pharmacy in the State, and to register and to grant certificates of registration to those found properly qualified. It is unlawful for any one excepting a holder of a certificate of registration to compound or to dispense drugs and medicines. The board is required to prosecute all persons who may violate the pharmacy law, and to report annually to the governor and to the State Pharmaceutical Association the condition of pharmacy in the State, the proceedings of the board for the preceding year, and the names of all pharmacists registered by the board.

58. The Commissioner of Irrigation and Forestry is appointed by the governor, with the advice and consent of the Senate. It is the duty of this officer to aid in the

development of a system of irrigation by means of artesian wells, reservoirs, and canals; to have in charge a system of state forestry designed to promote tree-culture; to superintend meteorological or weather stations; to investigate the laws of rainfall; and to make record of the geological formation, topography, and water-supply of the State. His salary is \$1000 per annum, with an allowance of \$500 per annum for traveling and other expenses.

This officer is *ex-officio* fish and game commissioner. Assuch, it is his duty to recommend to the governor not more than two citizens in each county to be fish and game protectors, who are appointed by the governor to serve for four years. The commissioner and the game protectors are empowered to arrest without warrant any one found violating the fish and game laws of the State.

59. The State Board of Equalization consists of the governor, the state auditor, the attorney-general, and six qualified electors appointed by the governor, one from each judicial district in the State.¹

The board meets annually, on the third Tuesday in August, at the office of the state auditors, to examine and compare the returns of the county assessors and to make such changes as are necessary in order to equalize the assessments for taxes, so that taxation may be uniform throughout the State. The board also assesses the value of all railroad property in the State, and apportions the same to the counties, cities, towns, townships, and school districts in which the railroads are located, as a basis for the taxation of such property.

60. The State Board of Health is composed of three members. The attorney-general is *ex-officio* a member and president of the board; the governor appoints the other two, one of whom becomes the vice-president of the board

¹ The elector appointed from each district must not be a member of the county board of equalization.

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and the other, who must be a physician in good standing, becomes the superintendent. It is the duty of the board to take such measures and enforce such regulations as will promote and protect the health of the people of the State, and to oversee and superintend the work of the city, the county, and the township boards of health.

61. The Public Examiner is appointed by the governor, with the advice and consent of the Senate, to serve for two years, but may be removed by the governor at any time for violation of the law prescribing his duties or for failure to perform the duties of the office. It is the duty of the public examiner once in each year to examine and audit the books and accounts of the various state officers, of the county treasurers, county commissioners, and county auditors; to exercise supervision over the books and accounts of the state institutions, prescribing and enforcing correct methods of keeping accounts; to visit once in each year, without giving notice of his intended visit, every bank, banking and savings institution, insurance company, safe deposit, loan, or trust company, and by a thorough examination of their books, accounts, money, and securities, to ascertain their exact financial condition, and report the same to the governor, with such suggestions and recommendations as he may deem necessary.

62. The Adjutant-General is appointed by the governor. He is chief of the governor's military staff and is his military executive officer. He issues all the orders of the governor to the National Guard of the State;¹ a list of all of the officers and enlisted men connected with the National Guard is kept in his office. He issues an annual report setting forth the condition and requirements

¹ The state militia consists of all able-bodied male persons residing in the State between eighteen and forty-five years of age who are not exempted by law. The *organized* militia constitutes the National Guard of the State. (*See Art. XIII. Sect. 138.*)

of the National Guard, and has supervision of the bureau of pensions, whose duty it is to assist ex-soldiers or sailors in making application to the Federal Government for pensions.¹

63. The State Board of Veterinary Medical Examiners consists of three practicing veterinarians appointed by the governor, with the advice and consent of the Senate, to serve for three years. The principal duty of this board is to grant certificates authorizing those found qualified, to practice veterinary medicine, surgery and dentistry in the State.

63a. The State Veterinarian.—The professor of veterinary science of the State agricultural college is the chief State veterinarian. It is his duty to assist and direct the district veterinarians, and with the approval and consent of the governor, to make quarantine regulations and to prescribe such rules and regulations as may be necessary to meet the requirements of the laws relating to his department.

63b. The District Veterinarian.—The State is divided by the Legislative Assembly into seven veterinarian districts, for each of which a district veterinarian is appointed by the governor, with the advice and consent of the Senate. It is the duty of this officer to investigate all cases of infectious disease among cattle in his district; to prevent diseased cattle from being brought into or taken from his district; and, when necessary, to cause diseased cattle to be slaughtered, so as to prevent the disease from becoming epidemic.

All the executive officers of the State are required to present to the governor, at stated times, a report of the condition and operations of their respective departments. From these reports the governor obtains the information which he presents to the Legislative Assembly in his messages.

THE JUDICIAL DEPARTMENT.

64. The Judicial Power of the State is vested in one supreme court and in lower courts consisting of district courts, county courts, courts of justices of the peace, magistrates' courts, and such other courts as may be created by the Legislative Assembly.¹

65. The Supreme Court consists of three judges chosen by the electors of the State to serve for six years and until their successors are elected and qualified.² No person is eligible to the office of judge of the supreme court unless he is learned in the law, is at least thirty years of age, and is a citizen of the United States, nor unless he has been a resident of the State for three years immediately preceding his election. In case of a vacancy in the court, the governor appoints a judge to fill the vacancy, who serves until a judge is chosen by the electors at the next general election. The judges of the supreme court are called "justices," to distinguish them from the judges of the lower courts. The justice longest in service is the chief justice. The supreme court is authorized to issue various writs, and to hear and determine the same, for the purpose of correcting abuses and preventing violations of the law. In these cases it decides only on matters of law; matters of fact are referred to a district court, and are decided by a jury. The jurisdiction of the supreme court extends over the entire State, and is both *original* and *appellate*. The original jurisdiction of the supreme court is its power to decide cases that have not previously been tried by a lower court; it is limited to cases in which the rights and powers of the State are involved. Its jurisdiction is mainly *appellate*, which is its power to decide cases

¹ See *Art. IV. Sect. 85*, and ¶ 124*, page 65.

² When the population of the State becomes 600,000 the Legislative Assembly is authorized to increase the number of judges to five. (See *Art. IV. Sect. 95*.)

that have previously been tried by a lower court, and which have been appealed to the supreme court for final decision. When a case is appealed from a lower court to the supreme court, the evidence submitted in the lower court, and the history of the case, usually printed in pamphlet form and known as the "paper book" of the case, are presented to the supreme court, which examines the evidence and hears the arguments of counsel. No new evidence is admitted, and there is no jury. The opinion of a majority of the judges forms the opinion or decision of the court, which is final unless the court should reverse its opinion or unless the case involves the Constitution and laws of the United States, when it may be appealed to the United States courts. The clerk of the supreme court is appointed by the judges; they also appoint a reporter who compiles the decisions of the court and superintends their publication. These volumes constitute the Supreme Court Reports, and are the precedents for subsequent decisions by both the supreme court and the lower courts. There are two terms of the supreme court held each year at Bismarck, beginning respectively on the first Tuesday in April and on the first Tuesday in October. A special term may be held if a majority of the judges of the supreme court deem it necessary. The salary of the judges of the supreme court is \$4000 per annum.¹

66. The District Courts.—The State was originally divided by the constitution into six judicial districts.² For greater convenience in holding courts the judicial districts have been divided by the Legislative Assembly into judicial subdivisions; usually one county constitutes a sub-

¹ The supreme court has no power to change a law or to determine what the law should be, but only to determine the question of its constitutionality, and that only when a specific case is brought before it. If it should give an opinion on any point not involved in such a case, it is an opinion merely, and not a decision which becomes a part of the law.

² Increased to seven in 1895. See *Art. IV. Sects. 104, 105, 106.*

division. In each of these subdivisions a term of court is held twice in each year, and extra sessions may be held when necessary. The district court is presided over by a judge who is chosen in each district by the electors thereof to serve for four years and until his successor is elected and qualified. No person is eligible to the office of district judge unless he is learned in the law, is at least twenty-five years of age, and is a citizen of the United States, nor unless he has been a resident of the State for at least two years immediately preceding his election, and is at the time of his election an elector in the judicial district for which he is chosen. The district court exercises both original and appellate jurisdiction. It has original jurisdiction in both civil and criminal cases, excepting in cases the original jurisdiction of which is entrusted to other courts,¹ and it has power to issue writs of *habeas corpus*, *quo warranto*, *mandamus*, *certiorari*, *injunction*, and other writs, and to hear and determine the same in correcting abuses and preventing violations of the law.² It has appellate jurisdiction in all cases brought into it by appeal from the county courts, from the courts of the justices of the peace, and from the

¹ The cases in which the district court may not exercise original jurisdiction are principally those in which the power or right of the State is questioned, and which cases are determined by the supreme court of the State, and cases relating to the settlement of the estates of deceased persons, the appointment of guardians, etc., in which the county court has original jurisdiction.

² A writ of *habeas corpus* is an order of the court directing any one who has charge of a person confined or imprisoned to produce the imprisoned person in court, that the cause of his imprisonment may be inquired into. A writ of *quo warranto* is an order commanding a person to show by what authority or right he performs certain actions: it is usually exercised when the authority of an officer is questioned. A writ of *mandamus* is an order commanding a person, a corporation, or a lower court to perform some particular act; a writ of *certiorari* is an order from a superior court calling up the records of an inferior court, or removing a cause therein pending so that it may be tried in the superior court. An *injunction* is an order commanding a person, a corporation, or a lower court not to perform some particular act.

police magistrates' courts. The salary of the judges of the district courts is \$3500 per annum.¹ The clerk of the

¹ The commission of a crime affects not only the person injured, but is an offence against, and a violation of, the laws of the State. When a person accused of crime is brought before the court for trial, the charge against him is made in the name of the State, and the attorney who prosecutes the charge is known as the State's attorney. A person accused of committing a crime is brought before the court for trial either by action of the grand jury or by the State's attorney. The Constitution of the State authorizes the Legislative Assembly to change, regulate, or abolish the grand-jury system. The law provides that no grand jury shall be summoned unless the judge of the district court shall file an order to that effect with the clerk of the court; such an order must be issued on the written request of the board of county commissioners of the county in which the court is to be held, or on petition of not less than twenty-five freeholders and tax-payers of the county.

The method of drawing jurors is as follows: In each county a list is prepared containing the names of two hundred male citizens who are electors and tax-payers. The county commissioners, on the basis of the last assessment-roll, apportion to each township and incorporated city in the county its share of the two hundred names. The board of supervisors in the township and the city council of the city select from the tax-payers resident in their township or city three times as many names as the number apportioned to them, and from these names they draw by lot the requisite number, and the names so drawn are forwarded to the clerk of the district court. Within two days after the clerk of the court has received an order from the judge of the district court directing a jury to be summoned, the clerk of the court, the county auditor, and the county treasurer, or a majority of them, meet at the county seat, and draw by lot from the two hundred names on the juror list the number of jurors required in the order. The number of the grand jury is not less than sixteen nor more than twenty-three. If a grand jury has been ordered, the jurors first drawn, to the number named in the order, serve as grand jurors, the remainder constitute the *petit* jury. At the end of each term of court the jurors who have served are discharged and the clerk of the court makes requisition upon the county commissioners for as many new names as may be necessary to keep the number two hundred full.

It is the duty of the grand jury to investigate all cases of crimes and offences committed within the jurisdiction of the district court. As the result of their investigation a *presentment* may be found, which is a state-

district court is chosen in each county by the electors, and the sheriff of the county executes the decrees of the district court.¹

67. The County Courts have exclusive original jurisdiction in all matters relating to the settlement of the estates of deceased persons, the appointment of executors, administrators, and guardians, and such other probate jurisdiction as may be provided by law.² Whenever the population of a county amounts to two thousand or more, if the electors by a majority vote shall so decide, the jurisdiction of the court is extended to all civil cases in which the amount in dispute is not over one thousand dollars, and to criminal cases below the grade of felony.³

Counties not organized may be attached to neighboring organized counties for judicial purposes.⁴

68. Justices of the Peace have jurisdiction in civil

ment in writing to the court that a crime or offence has been committed and that there is reason for believing that the person named or described in the presentment is guilty; or the grand jury may prepare an indictment, or accusation, in writing and place it before the court, charging the person named in the indictment with having committed the crime or offence, and endorsing on the indictment "A true bill." Neither a presentment nor an indictment can be made without the concurrence of at least twelve of the grand jurors.

If no grand jury is summoned, the State's attorney files *information* in the district court against persons accused of crime, after such preliminary examination as the law requires.

¹ See ¶ 82, page 46.

² The will of a deceased person must be proved in this court and approved by the judge before it can be carried into effect. If an executor is named in the will, he is authorized by the judge to proceed in the administration of the estate as directed in the will; if no executor is named in the will, or if a citizen owning property dies without having made a will, the judge appoints an administrator. A copy of the will and the certificate of proof is entered on the records of the court.

³ A felony is a crime the punishment for which is death or imprisonment in the State prison.

⁴ See *Art. IV. Sects. 110, 111, 112.*

cases in which the amount in dispute does not exceed two hundred dollars, except when the boundaries of or the title to land is in question, in which cases they have no jurisdiction. They are authorized to hear and determine cases of misdemeanor and minor violations of law, and to release on bail, or to commit to jail to await trial by the proper court, all persons accused of serious crimes.¹

69. Police Magistrates are chosen by the electors in cities, incorporated towns, and villages, and have jurisdiction in all cases of violation of local ordinances and laws. The police magistrate is *ex-officio* a justice of the peace for the county in which the city, town, or village is located.²

70. Tribunals of Conciliation may be established, but the decisions of these tribunals are not binding unless the interested parties voluntarily submit their matters of difference and agree to abide by the judgment of the tribunal. Four commissioners may be elected in each city, incorporated town, village, or township. At the time of issuing a summons in any civil action, the justice of the peace shall call two of the commissioners together, who, with the justice, shall try the case. If either party fails to appear, judgment is entered against him. If both parties appear, they state the differences between them, and each submits evidence to sustain his claim. No attorney is allowed to appear. After hearing the case the commissioners and the justice endeavor to persuade the parties to settle their differences amicably. If this is done, an agreement signed by both parties is entered by the justice on his *docket*³ as the judgment of his court. If the parties do not agree, the case comes before the justice as if nothing had been done.

¹ See Art. IV. Sect. 112.

² See Art. IV. Sects. 111-113. Most of the cases tried by a police magistrate or a justice of the peace may be appealed to the higher courts for final decision.

³ The *docket* is the record of the justice's court.

71. Exclusive and Concurrent Jurisdiction.—A court has *exclusive* jurisdiction when a suit at law may be begun and tried only by that court. If a lawsuit may be begun in either of two or more courts, those courts have *concurrent* jurisdiction. In a dispute in which the amount involved does not exceed \$200, suit may be brought either in the justice's court or in the district court. In such cases the two courts have concurrent jurisdiction.

THE REVENUE OF THE STATE.

72. The Revenue of the State required to defray the expenses of the State government is derived from taxation on all taxable property in the State, from fees received for granting charters, from licenses, fines, and penalties, from the sale of land belonging to the State, from escheats,² and from various other sources.

¹ See *Art. IV. Sect. 111*.

² **Escheats.**—If a citizen of a State dies leaving property, but having no heirs and not having made a will, the State becomes the heir, and the property escheats to the State—that is, it becomes the property of the State.

THE COUNTY.

73. The County.—The State of North Dakota contains fifty-four counties, thirty-nine of which have an organized county government. New counties may be organized by the Legislative Assembly, but no new county may be organized which contains an area of less than twenty-four congressional townships or a population of less than one thousand *bona fide* inhabitants.¹

74. The Officers of the County are the board of county commissioners, the county judge, the clerk of the district court, the State's attorney, the register of deeds, the county treasurer, the sheriff, the coroner, the county surveyor, the county auditor, the county superintendent of schools, the justices of the peace, and the constables. All the county officers are chosen by the electors of the county to serve for two years, except the county commissioners, who are chosen for three years. All county officers who have charge of the county's money are required to give a bond for its safe-keeping and security. All county officers must be electors of the county in which they are chosen, and they continue in office until their successors are elected and qualified.

75. The Government of the County, like that of the State, is tripartite in form. The legislative power is vested in the board of county commissioners, the judicial power is vested in the courts, and the executive power in the other officers of the county and in the committees appointed by the board of county commissioners.

76. The County Commissioners² have the care and

¹ See Art. X. Sect. 167.

² When a county is organized it may be divided either into three or into five districts as the voters shall determine, and a commissioner is chosen by the electors in each district. If one-third of the electors in an organized county having three commissioners desire the number increased to five, they may petition the board of county commissioners

oversight of all financial matters of the county. They erect and exercise supervision over the public buildings and structures of the county, such as the court-house, the jail, the bridges, and the poor-house. They, together with the county auditor, have power to revise and correct the valuations of property as made by the assessors; they determine the amount of money necessary to be raised by taxation for the government of the county, and fix the rate of taxation; they are required to keep a strict account with the treasurer, and to issue warrants for the disbursement of the funds of the county; they audit the accounts of all officers who have the handling of any county funds; they have power to lay out, vacate, and change highways; they may institute and prosecute civil actions and they represent the county in any cause where the county is a party; they are required to designate which banks in the county shall be the depositories of the county funds; on petition of any person interested, they may appoint three freeholders of the county to serve as a board of drain commissioners; they provide for the destruction of noxious weeds; they divide the county into election precincts; and they may issue bonds to pay the debts of the county or to build a court-house, jail, etc., but the amount of such bonds is limited by law.¹

In any county in which township organization has been adopted, the board of county commissioners may be dispensed with by a majority vote of the electors, and the

to that effect, and that board, together with the county judge and county auditor, become a commission with power to redistrict the county and make provision for securing the object of the petitioners. Each commissioner must be a resident of the district he represents.

¹ The limit of indebtedness is five per cent. of the valuation of the property in the county according to the last assessment.

When the expenditure of a large amount of money is necessary, such as would be required for building a court-house, a jail, or other public structure, the matter must be submitted to and approved by the electors at a regular or special election.

affairs of said county may be transacted by a board of supervisors, composed of the chairmen of the several township boards of supervisors of said county. As yet, none of the counties have adopted the supervisor system.

77. The County Judge must be a resident and elector of the county at the time of his election, and if the jurisdiction of the court has been extended,¹ he must be at least twenty-five years of age, a citizen of the United States, and a resident of the State for at least two years immediately preceding his election. He presides over the county court and is *ex-officio* the chairman of the county board of insanity. He is authorized to issue marriage licenses and to perform the marriage ceremony.

78. The Clerk of the District Court attends at all the sessions of the court, makes a record of its proceedings, issues attachments or notices calling into court such persons as the judge may direct to be present, calls jurors and witnesses before the court and administers the oath to them; he has charge of the seal of the court and affixes it to all documents requiring it; he superintends all the clerical work of the court and enters on the court records all the judgments and decisions of the court.

79. The State's Attorney.—No one is eligible to the office of State's attorney who has not been admitted to practice in some court of record in this State; the duties of the office are such that a lawyer must necessarily be chosen to fill the office. It is the duty of the State's attorney to advise county officers on all legal matters connected with the performance of the duties of their offices; to prosecute and defend all civil actions in which the county is an interested party; and to prosecute all persons accused of committing crimes or offences against the law and who are brought before the courts for trial.

80. The Register of Deeds has charge of the books in

¹ See ¶ 67, page 40.

which are recorded all transfers of real estate. The people are constantly buying and selling land, executing deeds and mortgages, and making contracts of various kinds. All deeds, mortgages, and many other papers are by law required to be recorded in the office of the register of deeds. So important are the accuracy and exactness of the record, that the law requires the register to endorse on every document recorded in his office, the date, the hour and the minute of its entry on his record, and also the number and page of the book in which the record is made.

81. The County Treasurer is the collector and receiver of all taxes appearing on the tax list of the county, and of all money paid to any county officer for fines, penalties, licenses, etc., for the use of the county. He receives the tax list from the auditor and must account to him for all moneys collected. He pays out the county's money by authority of warrants issued by the county commissioners, attested by the auditor. He is required to deposit promptly all money received by him in banks designated by the county commissioners. He is authorized to seize and to sell the goods and chattels of those who have failed to pay the taxes on their personal property. No person may hold the office of treasurer for more than two consecutive terms.

82. The Sheriff is the executive officer of the county and of its courts. The decrees of the court, if to be executed in another county, are executed by the sheriff of that county; if they are to be executed in another State, they are executed with the approval and by the direction of the governor of that State, through a sheriff in that State. The sheriff serves all processes and executes all decrees of the courts in both civil and criminal matters. He has charge of the county jail and is responsible for the safe-keeping of the prisoners. He is required to be present at the sessions of the district court, and at the meetings of the board of county commissioners if the

board so require. He is required to maintain the peace of the county, and for this purpose in case of a riot he may summon the *posse comitatus*—that is, the citizens of the county—to assist him. If their aid is not sufficient he may call upon the governor of the State. If the State is unable to quell the violence, the governor may call upon the President, who shall in that case employ the armed forces of the United States for the maintenance of the laws of the State. No person may hold the office of sheriff for more than two consecutive terms.

83. The Coroner.—The principal duty of the coroner is to hold an inquest upon the body of any person who may have met with a violent death or who, it is believed, has died by unlawful means. When the coroner is notified of such a case he issues a warrant to the sheriff or to any constable, requiring him to summon three electors of the county, to appear before the coroner at the time and place stated in the warrant. The coroner has power to summon the jury from the bystanders if the service of the sheriff or constable cannot be conveniently procured. This is the "coroner's jury." If the jury find that a crime has been committed and name the person whom they believe to have committed it, the accused person is taken before a justice of the peace and by him committed to jail to await trial by the district court. It will be seen that the duties of the coroner are of great importance, both in bringing murderers to punishment and in protecting the innocent. The coroner performs the duties of the sheriff in case of the death or disability of that officer, until another sheriff is chosen.

84. Assessors of Taxes.—In all counties in which township organization has not been adopted, an assessor of taxes is elected in each commissioner district, at the same time as other county officers are elected.¹

¹ For the duties of assessors, see ¶ 100, p. 55.

85. The County Surveyor is elected to secure accuracy and skill in the construction of roads and bridges and in the survey of land. Any landholder in the county may call upon him to survey his land, and it is his duty when required by the district court, the county court, or the county board, to survey lands or lots belonging to the county and to advise in the construction of roads¹ and bridges. He is frequently consulted concerning the topographical interests of the county, and his knowledge tends to having all engineering work for the county executed with uniformity and economy. He is required to make and keep an accurate record of his surveys, and this record is competent evidence in the courts of the facts set forth in it.

86. The County Auditor, or his deputy, is the clerk of the county commissioners. He attests all warrants issued by the county commissioners, keeps a record of all their official proceedings, and preserves all records and papers which the law requires to be deposited in his office. He gives public notice of all general elections and of the names of the candidates;² he provides the ballots, poll-books, blanks for election returns, tally sheets and certificates of election, and delivers them to the inspectors of elections in all the precincts; he receives

¹ Every county in the State having a population of five thousand or more has a county road fund provided by a tax of not less than one mill on each dollar of assessed valuations; this fund is expended only on the principal thoroughfares and only on petition of at least one hundred persons owning taxable property and residing in the vicinity of the highway upon which improvement is asked. All other roads outside of the cities are under county or township supervision.

² The certificates of nomination of all persons nominated for county offices are filed in the auditor's office, and the secretary of state sends him an official list of all persons nominated for State offices or for offices in divisions of the State greater than a county, such as presidential electors, judges of the district court, members of the Legislative Assembly, and members of Congress.

from the election inspectors at the various voting places in the county, statements of the results of all elections; these statements are filed and preserved in the auditor's office as part of the records of the county. He acts as clerk at the sales and leases of school lands and reports the same to the board of university and school lands.¹ He ascertains from the proper officers the amount of money to be raised by taxation for State, county, and township purposes, and makes up the tax list which shows the amount of taxes to be paid by each citizen of the county. He furnishes blank bonds to township clerks and clerks of school districts for all officers in their districts who are required to give bonds, and it is his duty to approve these bonds when they are properly executed and returned to him. He furnishes the State auditor with an abstract of tax lists of his county; he provides assessment books for each assessment district, and these books must contain lists of all lands or lots subject to taxation, showing the name of the owner, together with a list of mortgages held by residents of the district; he sells at public auction the lands on which taxes have not been paid; he must certify and endorse on the back of every deed that all taxes on the property described therein have been paid, before such deed can be recorded by the register of deeds. He is required to keep a strict and accurate account with the county treasurer.

87. The County Superintendent of Schools has general supervision of the public schools in the county, except those in cities which are organized under special laws. He holds public examination of persons who desire to become teachers in the public schools, and to those found competent he issues certificates of first, second, and third grade.² He is required to visit the schools in the county

¹ See ¶ 54, page 31.

² The first grade certificate authorizes its owner to teach in the pub-

at least once in each year, and to give such directions and suggestions as to the course of study and general management as the interests of the school may seem to require. It is his duty to decide controversies arising from the administration of the school law in the county; matters of dispute between school directors and others in relation to school affairs are frequently referred to the county superintendent for adjustment, but an appeal may be taken from his decision to the State superintendent.

88. The Justice of the Peace.—The Constable.¹—In each organized county there are chosen by the electors a number of justices of the peace and constables, sufficient for the proper administration of justice, each of whom has jurisdiction throughout the entire county.

89. The County Board of Equalization of Taxes consists of the county commissioners and the auditor. The board reviews the assessment rolls of the several assessor districts, increasing or diminishing the valuation on any class of property with a view to making such valuation uniform throughout the county, but it does not change individual assessments, except in the case of a non-resident property-holder, who may appeal to the

lic schools for three years, the second grade for two years, the third grade for one year.

No certificate may be granted to any person under eighteen years of age, and for a first grade the applicant must be at least twenty years of age, and must have taught successfully for twelve school months.

A certificate issued by the board of directors and faculty of either of the State normal schools certifying that its owner has completed the prescribed course of study in that institution and sustains a good moral character, is equivalent to a first grade certificate and qualifies the holder to teach in any of the public schools of the State. The State superintendent may issue a professional certificate valid for life, and a normal certificate valid for five years.

¹ For the duties of the justice of the peace and the constable, see §§ 101 and 102.

board if he thinks his property is assessed at more than its value.

90. The County Board of Insanity is composed of three members. The county judge is *ex-officio* a member and president of the board; the county commissioners appoint the other two members, one of whom must be a physician in good standing, the other must be a practising attorney. This board has cognizance of insane persons or those alleged to be insane. Insane persons are committed to the insane asylum or other provision for their protection is made by the board.

91. The County Board of Health is composed of three members. The State's attorney is *ex-officio* a member and president of the board; the county commissioners appoint the other two members, one of whom becomes the vice-president of the board, and the other, who must be a physician qualified to practise medicine in the State, becomes the superintendent. It is the duty of this board to take such measures and enforce such regulations as will promote and protect the health of the people of the county. The superintendent makes a record of the births and deaths in the county and acts as executive officer of the board.

92. The County Board of Drain Commissioners is appointed by the county commissioners. This board is composed of three electors of the county who are owners of real estate. It is the duty of this board to provide for the construction of drains or ditches for the drainage of swamps, marshes, and low lands when the public health or welfare require it.

93. The County Board of Appraisal of School Lands is composed of the county superintendent of schools, the chairman of the county commissioners and the county auditor. It is the duty of this board, when requested by the State board of university and school lands, to desig-

nate such tracts of land in the county as in their judgment have a value of ten dollars per acre.¹

The sessions of the courts are held at the county seat, where the offices of the county officers are located, and where the records of the county are kept. The size of the county is determined by the Legislative Assembly when the county is created. As the population of the county increases and the facilities for travel improve, the interests of the people of the county become more identified. Their county interests give them a just cause for a proper county pride.

The division of the State into counties, and our system of county government, had their origin in similar features that existed in England long before the Norman conquest; but the officers of the county, or shire, as it was then called, were not chosen by the people: they were appointed either by the king or by a representative of the king.²

¹ See ¶ 54, page 31, and *Art. IX. Sect. 153*.

² The early colonists of this country brought with them from England the forms and customs with which they were familiar. England, before the Norman conquest, was divided into shires, a shire being a share or part of the whole country. The executive officer in the shire was the *shire-reeve*, the predecessor of our sheriff; the power of the sheriff to call the *posse comitatus* to his aid may readily be traced to the old "hue and cry." When the Normans conquered England they changed the name of shire to county. In early English literature we may read of the "crownor," an officer appointed by the Crown, who has his successor in the coroner of to-day.

THE TOWNSHIP.

94. The Township.—The congressional township was created by the government survey; it is not a political division of the county, and has no political organization; it is simply a tract of land six miles square, instituted to afford a convenient method of locating and describing land. The civil township is created by the authority of the Constitution, and the method of creation is prescribed by the legislature.¹ If a congressional township in an organized county contains twenty-five legal voters, a majority of such voters may petition the county commissioners for organization into a civil township. It is the duty of the board on receiving such petition to fix the boundaries of the new town and to give it a name. The congressional and civil townships are not necessarily co-extensive. A fraction of a congressional township may be organized separately or it may be joined to some other township; or a civil township may embrace more than one congressional township. The commissioners designate the place of holding the first town meeting, which must be held within twenty days from date of organization. The board report their proceedings to the county auditor, and the sheriff causes the notice of the first town meeting to be duly posted, not less than ten days before the time designated.

The township is one of the oldest institutions in government; we can trace its history back to our Saxon ancestors in the wilds of Germany. Groups of families there met together to make such regulations as common interests required. "Around the group of houses in a German village there was arranged, for purposes of defence, a hedge or a fence, called a *tûn*. The village with

¹ See Art. X. Sect. 170.

the surrounding country containing the fields and pastures of the townsmen was called the *tun-scipe* or *township*."

95. The Officers of the Township are three supervisors,¹ the assessor of taxes, the treasurer, two justices of the peace, two constables, the township clerk, and one overseer of highways for each road district in the township. The township officers are chosen by the electors to serve for one year, except the justices of the peace and the constable, who are chosen for two years. The township officers must be electors of the township in which they are chosen and they continue in office until their successors are elected and qualified. All of the township officers who have charge of any of the township's money are required to give a bond for its safe-keeping and security.

96. The Town Meeting is held annually on the first Tuesday in March.² At this meeting the township officers are elected; the supervisors, treasurer, clerk, assessor, justices, and constables are chosen by ballot; other officers are elected by ballot, *viva voce*, or otherwise, as the electors may determine. Part of the time is spent in hearing reports of the officers for the preceding year; in making regulations for impounding of animals; in determining the number of pound-masters and locating pounds; in directing the institution or defence of any legal process that may be deemed necessary; in voting to raise such sums of money as may be necessary for repairing and building roads and bridges and for other necessary township expenses; and in legislating for the general interests of the township.

Any person qualified to vote at a State election and who has been a resident of the township ten days immediately

¹ The electors designate on their ballots one of the supervisors as chairman of the board of supervisors.

² Special meetings may be called for filling vacancies and transacting any lawful business when the supervisors, clerk and justices, or any two of them with twelve freeholders shall file a petition with the clerk showing the necessity of such meeting.

preceding the election may cast his ballot and become a legislator in the town meeting.

The town meeting is the only example of pure democracy in our system of government. In the town meeting the voters take part in legislation directly, whereas in all other branches of government the voters legislate indirectly through their representatives, thus constituting a representative form of government.

Like the State and the nation, the township government has its three branches: the executive, in the supervisors; the judicial, in the justices of the peace; and the legislative, in the electors.

97. The Board of Supervisors.—It is the duty of the township supervisors to examine, and when found satisfactory to approve the bonds of the township officers; to examine and audit their accounts; and to examine all bills against the township, and when found correct to draw orders on the treasurer for their payment.

98. The Township Board of Health.—The board of supervisors constitute the township board of health; as such it is their duty to keep a record of all births and deaths in the township and to take such action and enforce such regulations as are necessary to promote and protect the health of the community.

99. The Township Board of Equalization of Taxes is composed of the board of supervisors and the township clerk; as such it is their duty to see that all taxable property has been entered upon the tax list at its proper valuation, for which purpose they have authority to revise and correct the valuations of property made by the assessor of taxes.

100. The Assessor of Taxes receives from the county auditor a book containing a description of each lot or tract of land in the township. It is the duty of the assessor to determine the full and true value of each tract of land thus described and enter this value in the book

opposite the description. For the assessment of personal property, each citizen is required to make a statement, under oath, of the value of the personal property owned by him. If any citizen refuses to make such a statement, the assessor determines the value of his personal property and in such cases no reduction may be made by the board of equalization. After the assessor's book has been revised by the board of equalization, it is returned to the county auditor by the assessor, accompanied by an affidavit to the effect that he has performed his duties faithfully and to the best of his ability.

101. The Treasurer receives all money belonging to the township and disburses the same on orders issued by the board of supervisors.

102. The Justice of the Peace.—The humblest court in the land, the court of greatest antiquity, and the court from which all others have been developed, is the justice's court. The justice of the peace presides in this court and hears and determines suits at law. These suits grow out of the interests and disputes constantly arising in every community. Civil suits in which the value in dispute is not more than two hundred dollars may be tried in the justice's court.

The justice is authorized to issue warrants for the arrest of any one who violates the laws or is accused of crime. In cases of misdemeanor or minor violations of the law he imposes upon the offender a fine or short imprisonment; in more serious cases he sends the case to a higher court, and releases the accused person on his giving bail or security to appear in court when summoned for trial. If the accused cannot give bail satisfactory to the justice, and in cases which are not bailable, such as murder, the accused is sent to jail, where he remains until his case is tried in court, unless he is released by a judge of the court through a writ of *habeas corpus*.¹

¹ A writ of *habeas corpus* is an order issued by a judge directing the

The justice of the peace is authorized to administer oaths or affirmations, to perform the marriage ceremony, to attest signatures, deeds and other documents, and to perform the duties of the coroner if that officer is unable to act. A justice of the peace in any township has jurisdiction throughout the county. From the decision of the justice's court an appeal may be taken to a higher court.¹

103. The Constable holds an office of great antiquity. He is responsible for the peace and good order of the township. He may arrest any one without a warrant for disorderly conduct or for violation of the game laws of the State, but must take such persons at once before the justice of the peace for a hearing. He executes the orders of the justice and when so acting he represents a supreme authority. Under the authority of a warrant issued by a justice of the peace he arrests accused persons,² delivers them at the county jail when committed thereto by the justice, examines premises suspected of containing stolen goods, and levies upon and sells the property of debtors when judgment has been obtained against them in the justice's court.

104. The Township Clerk gives notice of all township meetings and makes a record of all business transacted at the meetings; he acts as clerk of the board of supervisors; he notifies all persons elected to office in the township and sees that such persons qualify themselves for the office by taking the oath of office and by giving their bonds.

105. The Overseers of the Highways are responsible

sheriff to produce the accused person in court, that the cause of his imprisonment may be inquired into.

¹ See Art. IV. Sect. 112.

² If he is unable to arrest an accused person or to subdue a riot, he may call upon the *posse comitatus*, that is, the citizens of the township, to help him. If their aid is not sufficient, he may call upon the county sheriff. See ¶ 82, page 47.

for the condition of the public roads. The township is divided into road districts and each overseer has charge of one district. A taxpayer may pay his road tax by working on the roads under the direction of the overseer, or he may pay the tax in money to be expended in repairing the highways. The overseers are required to keep an accurate account of their receipts and expenditures and submit the same to the township supervisors. The highways of this country are inferior to those of Europe, but great progress has been made within the last few years looking to their improvement.

106. The Pound-Master has the charge of horses, cattle and other animals found running at large, of which he keeps possession until the owners pay the pound-master's charges.

THE TOWN.

107. The Town.—When the population of a community increases to such an extent as to require a local government with greater powers than the government of the township, it usually forms itself into an incorporated town. To accomplish this, a petition signed by at least one-third of the electors of the proposed town, containing an accurate survey and description of the locality which it is desired shall be incorporated, and a census of the people residing therein, is presented to the board of county commissioners, asking that the community be created an incorporated town. If the petition is favorably considered, the county commissioners order a special election by the electors interested, to determine the matter by popular vote. If a majority of the electors vote in favor of incorporation, the county commissioners declare the town incorporated under a name chosen by the electors. The town is divided into not less than three nor more than seven districts.

108. The Officers of the Town are the town trustees,¹ the town clerk, the treasurer, the assessor, the justice of the peace, and the marshal, who are elected annually on the first Monday in May.

109. The Town Trustees elect one of their own number as president; they constitute the governing board of the town, and are entrusted with the general management of the town's affairs and interests; they make such laws as are necessary for the government of the town; they determine the amount of tax to be levied to meet the expenses of the town; they lay out, grade, and improve streets and highways; and they grant such licenses as are allowed by law. It is the duty of the trustees to take

¹ One trustee is chosen by the electors in each district.

such action and to make such laws as will promote the welfare of the people of the town.

110. The Other Town Officers.—The duties of the town clerk, the treasurer, the assessor, and the justice of the peace are similar to those of like officers in the county and the township.

111. The Marshal executes the decrees of the justice of the peace and is responsible for the good order of the town. He is empowered to arrest any one whom he may detect in violating the laws of the State or of the town. His duties in the town are similar to those of the sheriff in the county and the constable in the township.

SCHOOL DISTRICTS.

112. School Districts may be classified as general, special, and independent. The general school districts comprise those districts which are co-extensive with the township, exclusive of any special district that may have been organized therein, and those districts which include only a part of a township. These last, as regards management, belong to the district system in distinction from the township system.¹ In all cases the school officers are elected by the legal voters residing in the district. The election is held annually on the third Tuesday in June. The management consists of three school directors whose term of office is three years, and one school treasurer whose term of office is two years. The school directors regulate the length and occurrence of the school term, the order of the school studies, the selection of text-books and the

¹ The reason for this diversity is to be found in the fact that many school districts had already been organized without regard to township lines before North Dakota was admitted as a State. The law provides that every township, no part of which was included in an organized district, shall be formed into a single school district. It also empowers the county commissioners and county superintendent to make such changes as will in time secure uniformity of township organization.

supply of school material and furniture, the employment and discharge of teachers, and they determine the amount of money to be raised by taxation for building school houses and for maintaining schools.¹

Special school districts.—Any city or incorporated town, having a population of three hundred or more, may be constituted an independent or special school district, if a majority of the voters at a special election shall decide in favor of such organization. The board of education in special school districts consists of five members. At the first election two members of the board are chosen to serve for one year, two for two years, and two for three years; annually thereafter an election is held on the third Tuesday in June, at which as many members are elected as may be necessary to fill vacancies caused by expiration of terms of service. Each member so elected serves for a term of three years.

Independent school districts.—Any city previously organized for school purposes and having a board of education, may be incorporated as an independent school district when a majority of the legal voters of the city shall so determine, at an election duly appointed by the mayor and the council. The board of education in the independent district consists of members elected in each ward and one member at large, if there is an even number of wards. The term of office is two years. The election is held on the third Monday in April of each year.

The powers and duties of the board are: the custody of all public property used for school purposes within the district, the management of all school matters, and the levying of taxes for the maintenance of the schools.

¹ See ¶ 127, page 66.

THE CITY.

113. The Government of a City has power to regulate all of its affairs of a strictly local nature, but its power to levy taxes, to borrow money, or to contract debts is limited and controlled by the Legislative Assembly.¹ Any incorporated town, village, or area of contiguous territory not exceeding four square miles, having a population of not less than five hundred, may be incorporated as a city, if a majority of the electors of the proposed city shall, at an election, so decide.

114. The Elective Officers of a city are the mayor, two aldermen for each ward into which the city is divided, the city treasurer, and the police magistrate;² all of whom are chosen by the electors to serve for two years and until their successors are elected and qualified.

115. Appointed Officers.—The mayor of the city appoints a city assessor, a city attorney, a city engineer, a city auditor, a chief of police, policemen, and such other officers as the council may deem necessary. All the officers whom he appoints, excepting the policemen, require the approval of the council.

116. The City Council is composed of the aldermen elected from the various wards into which the city is divided. It makes all the laws necessary for the government of the city, but the laws it makes must not conflict with the laws of the State or of the United States. The laws which it makes are called ordinances. The council determines the amount of money necessary to carry on the city government, and fixes the rate of taxation; it has power to borrow money and issue bonds for city purposes, but the amount of indebtedness is limited to five per cent.

¹ See Art. VI. Sect. 130.

² In those cities in which a municipal court has been established the office of police magistrate is abolished.

of the assessed valuation of taxable property in the city.¹ For the construction of water-works and sewers, but for no other purpose, the council of an incorporated city may increase the debt to an amount not exceeding four per cent. of the assessed valuation of taxable property in addition to all other existing indebtedness.² The council has power to control the public streets, sidewalks, public parks and grounds, to provide for lighting them, keeping them in good order and free from obstruction; to construct bridges, drains, and sewers; to license peddlers, draymen, and others of like occupation; to prescribe fire limits; to abate nuisances; to provide city jails and houses of correction, and to suppress disorderly houses within the city and within one mile of its outer boundaries. It is its duty to enact such ordinances as will promote the general welfare of the people of the city.

The city council together with the city auditor act as a board for the equalization of taxes. It is the duty of this board to see that all taxable property is entered on the assessment roll and properly valued for the purpose of taxation. Any property-owner who thinks that his property has been assessed at more than its value, may appeal to this board for a re-valuation of his property.

117. The Mayor is the chief executive officer of the city. He must be a citizen of the United States and a resident and elector of the city. In case of a vacancy in the office of mayor, if the unexpired term is one year or more there must be a special election to fill the vacancy. If less than one year, the council elect one of their own number to hold the office until the next regular election. The mayor is empowered to remove any officer of his own appointment, but must report the reasons for the removal

¹ The amount of indebtedness may be increased to eight per cent. of the assessed valuation of taxable property, if two-thirds of the electors of the city shall so determine by voting in favor of such increase.

² See *Art. XII. Sect. 183.*

to the council at its next regular meeting. He is responsible for the good order of the city and has the same power to suppress disorders and to keep the peace as is conferred upon the sheriff. All ordinances or resolutions passed by the council require his approval and signature; should he disapprove and veto any ordinance or resolution, it must be re-passed by a vote of two-thirds of all the council before it can become a law. It is his duty to communicate to the council once in each year a statement of the finances and the condition of the city's affairs, and it is his especial duty not to question the justice or expediency of the laws, but faithfully to execute all the laws of the city, and of the State so far as they are applicable to the city.

118. The Treasurer receives all money belonging to the city, including taxes, licenses, fines and penalties, and pays out the city's money on warrants issued by the mayor and countersigned by the auditor. He is forbidden to use any of the city's funds for his own personal benefit.

119. The Police Magistrate has exclusive jurisdiction in all cases of violation of the ordinances of the city; he is *ex-officio* a justice of the peace.¹

120. The City Assessor is required to make a list of all property in the city that is subject to city, county, or State taxes. The list is called the assessment roll, and must be delivered to the city auditor on or before the second Tuesday of June in each year. A board of equalization consisting of the city council and the auditor is authorized to correct any errors in the assessment roll.

121. The City Attorney appears before the courts and represents the city in all civil actions to which it is a party. He advises the officers of the city on all matters of law connected with their departments, and is required to give a legal opinion on any subject submitted to him by the council.

¹ See ¶ 69, page 41. For the duties of a justice of the peace, see ¶ 101, page 56. See note 2, page 62.

122. The City Engineer must be a practical surveyor and civil engineer. He has charge of all plans, surveys, and profiles belonging to the city, and performs such duties connected with his department as may be prescribed by the council.

123. The City Auditor is the recording and accounting officer of the city. He keeps an accurate record of all the papers and documents of the city, including bonds and other evidences of indebtedness. The auditor is *ex-officio* the clerk of the council, and is required to keep an accurate record of its proceedings.

124. The Chief of Police and all police officers have within the city limits the same powers as constables in the county; they serve warrants and processes for violations of the laws of the State or the ordinances of the city, and in performance of these duties may pursue and arrest in any part of the State any person charged with crime and fleeing from justice.

124a. Municipal Courts were created by the Legislative Assembly in 1895. A municipal court is established in each incorporated city in the State, having a population of five thousand or more. This is a court of record, having a clerk and a seal. The municipal court, wherever established, takes the place of the police court and has the same jurisdiction in the city as that heretofore exercised by the police court. In addition to this, it has the same civil and criminal jurisdiction that the law may at any time confer upon the county courts having increased jurisdiction.¹

The judge of the municipal court is chosen by the electors of the city at the general city election in April in each even-numbered year. His term of office is, therefore, two years. He has the same powers as other judges of courts of record and he is the chief judicial magistrate of the city.

¹ See Art. IV. Sect. 111.

CHAPTER III.

THE CITIZEN, THE ELECTOR, TAXATION, EDUCATION, LAND GRANTS, AMENDMENTS TO THE CONSTITUTION.

125. The Citizen.—The Constitution of the United States declares that "All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside." Women and children are citizens. But all citizens are not electors, and it should be carefully noted that citizenship does not carry with it the right to vote.

126. The Elector is a person who has the right to vote. The qualifications of an elector are prescribed by the Constitution of the State.¹ The State may determine who of its citizens may vote, but may not violate the Constitution of the United States, which declares that "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." The Legislative Assembly has the power to extend the right of suffrage, but any law on this subject that it may enact must be approved by a majority of the electors of the State, voting at a general election, before it can take effect. This is an instance of the *referendum* in vogue in Switzerland.

127. Women Voters.—All women having the requisite qualifications of age, residence, and citizenship, may vote for school officers and upon all questions relating exclu-

¹ See Art. V. Sect. 121.

sively to school matters, and they are eligible to any school office in the State.

128. Taxation.—The constitution vests the power of taxation and its regulation with the Legislative Assembly; it exempts from taxation property belonging to the United States, to the State, and to counties, cities, and incorporated towns; it authorizes the Legislative Assembly to exempt property used exclusively for school, religious, cemetery, or charitable purposes, and the personal property of individuals to the amount of \$200; it provides that all property shall be taxed by uniform rule, according to its true value in money; it authorizes the Legislative Assembly to impose an annual poll-tax of not more than \$1.50, and to enact such laws as may be necessary to provide a revenue to defray the expenses of the State and to secure uniformity in levying and collecting the taxes.¹

129. Education.—The constitution requires the Legislative Assembly to provide for and control a system of public schools, beginning with the primary and extending through all grades up to and including the normal school and State university. These schools are free to all children of the State and free from sectarian control. The Legislative Assembly is also required to prescribe such other measures as will prevent illiteracy, secure a reasonable degree of uniformity in the course of study, and promote industrial, scientific, and agricultural improvement. In all schools instruction must be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit and respect for honest labor of every kind.²

¹ See *Art. XI.*

² **The Permanent School Fund** for the maintenance of common schools is derived from the sale of school lands granted by the United States; five per cent. of the net proceeds of the sales of public lands

130. Land Grants made by the United States for educational purposes consist of Sections 16 and 36 of each congressional township for the support of common schools; of 126,080 acres for the State University, including the School of Mines; 130,000 acres for the State Agricultural College; 50,000 acres for the State Normal School at Valley City; 30,000 acres for the State Normal School at Mayville; and 170,000 acres for such other educational and charitable purposes as the Legislative Assembly should determine.¹

131. Amendments to the State Constitution.—Either house of the Legislative Assembly may propose an amendment to the constitution of the State. If agreed to by a majority of both houses it must be referred to the Assembly to be chosen at the next election. The proposed amendment must be published three months previously to the next election, so that the voice of the people for or against the amendment may be heard through their representatives. If passed by a majority of the new Assembly it must be submitted to the electors and voted upon. If approved by a majority of the electors of the State it becomes a part of the constitution.²

Two Suggestive Questions.—1. Why were so many things included in the State constitution that are usually left within the control of the legislatures of the States?

2. Why was amendment to the constitution made so difficult?

situated within the State, belonging to the United States; the proceeds of all property escheated to the State (*see note page 42*), and all donations to the State for common schools. This is a trust fund, the principal may be increased but never diminished, and the State must make good any losses that may be incurred.

All fines for violation of State laws, the school poll-tax, and school taxes levied by general law, are added to the income of the permanent fund, and the combined sum constitutes the State tuition fund, which is apportioned to the several counties in proportion to the number of children of school age. (*See Art. IX.*)

¹ See *Art. XIX.*

² See *Art. XV. Sect. 202.*

CHAPTER IV.

NOMINATIONS AND ELECTIONS.

132. Political Parties are a necessity in any form of popular government. A political party is an association of men, holding similar political views, working together for a common purpose. The legitimate object of party activity is good government, wisely administered for the general welfare. To make party the instrument of personal profit or emolument, or to make loyalty to party second to loyalty to the State, is a grievous error.

Political parties have existed in our government ever since the second administration of Washington, and have grown to have a controlling influence, not only in national affairs, but also in the affairs of the State, the county, the township, and the city.

“It is well for the State and the Nation that the people form different political parties. Errors in the administration of government are less likely to occur and are more quickly remedied, when one party keeps a close watch upon the policy and actions of its opponents.”

133. Organization.—The efficiency of an association depends upon a systematic method of work. A body needs a head. The affairs of a political party usually are in charge of committees, who look after the general interests of the party, and who, during the campaign preceding elections, arrange for public meetings and speakers to discuss “the issues of the day.” There are national, State, county, city, and sometimes township committees, each party having its own committee. The chairman

of a committee holds an important position, as he is largely responsible for conducting the campaign.

134. Candidates for the different offices are nominated either in conventions held for the purpose, or by certificates of nomination.¹

135. Conventions are composed of delegates chosen by the electors belonging to the party in whose interest the convention is held.

The delegates composing the county, the judicial district, and the senatorial district conventions are chosen by the electors in primary elections held in the various voting precincts in the townships and cities.

The city convention is composed of delegates chosen by the electors in primary elections held in each ward.

The State convention is composed of delegates chosen by the county convention.

The national convention is composed of delegates chosen by the State convention.²

136. Nominations by Conventions.—Candidates are nominated by the different conventions as follows:

For the office of President and of Vice-President of the United States, by the national convention.³

For State offices and for representative to Congress, by the State convention.⁴

¹ Candidates for county commissioner, for township offices, and for some other local offices, are usually nominated at a primary meeting of the electors.

² National and State conventions adopt resolutions setting forth the principles and purposes of the party. This declaration of principles is called the party platform.

³ The time and place of meeting of the national convention are designated by the national committee.

⁴ As North Dakota has but one representative in Congress, the State forms but one congressional district; when the population of the State increases so that the State will be entitled to more than one representative, the State will be divided into congressional districts, and the members of Congress will be nominated in congressional district conventions.

For the elective offices of the county, except county commissioners, by the county convention; for the office of district judge, by the judicial district convention; for the offices of State senator and representative to Legislative Assembly, by the senatorial district convention; and for elective offices in the city, by the city convention.

137. Nomination by Certificate.—Candidates for any office may also be nominated by certificate. A certificate of nomination for any office must contain the name, residence, business and address of the candidate, the party which he represents and the office for which he is nominated. If the nomination is for a State office, the certificate must be signed by not less than three hundred electors; if the nomination is for an office in any division less than the State, it must be signed by not less than one-tenth of the electors in such division.

138. The Ticket is made up as follows: A certificate of all nominations made by conventions, containing the name, residence, business, and address of each candidate and the office for which he is named, together with the name of the party represented by the convention, must be signed by the president and secretary of the convention and filed in the office of the secretary of state.

All certificates of nomination of candidates for State offices, or of any division greater than the county, and of candidates for legislative offices, nominated by certificates signed by electors, must also be filed with the secretary of state.

Certificates of nomination for county offices, are filed with the county auditor, and those for city offices are filed with the city auditor.

The secretary of state, from the certificates of nomination filed in his office, certifies to the county auditors the name and place of residence of each of the candidates for State offices to be voted for by the electors of the respective counties. The auditor completes the list of candidates

from the certificates of nomination filed in his office and publishes the same at least ten days before an election.

139. Inspectors and Judges of Election.—The chairman of the board of supervisors is *ex-officio* inspector of election in his own township. If the township contain more than three hundred electors, requiring more than one election precinct, then the chairman is inspector in the precinct where he resides, and he appoints an inspector in each of the other precincts. In cities the senior alderman or councilman is inspector in his own precinct, and in incorporated villages the president of the village board of trustees is inspector.

Before the opening of the polls the inspector appoints two judges¹ of election who must be qualified electors who have resided in the precinct for at least ninety days preceding the election, and who must be members of different political parties.

140. The Ballot.—Each ballot contains in separate columns the names of all the candidates of the different parties. Above each column is the name of the party represented by the candidates in that column. The names of the candidates representing the party which cast the highest number of votes for member of Congress at the last election are placed in the first column; of the party casting the next highest number in the second column, and so on in the same order. A blank space is left below each name wherein the elector may write the name of a candidate of his own choice.

¹ The chairman of the county committee of either of the two parties casting the highest number of votes in the State at the last general election may, at least one week prior to the election, nominate one of his party as judge of election. On bringing certificate of such nomination he is appointed by the inspector. The inspector and judges constitute the board of election. This board appoints two qualified electors as election clerks, one from each of the two parties casting the highest number of votes at the last State election.

141 Voting.—In each precinct a polling-place is provided by the inspector of elections. The polling-place contains a number of booths or compartments. The voter receives a ballot from the election judges and retires into one of the compartments to prepare his ballot in the way he wishes to vote. This is done by placing a cross (X) within the circle, before the name of each person for whom he desires to vote. The elector may write in the blank space, or paste over another name, the name of any person for whom he may wish to vote. If the ballot contains a question submitted to the vote of the people, the voter must place the same mark (X) within the circle, before the word or words that show how he desires to vote. The voter then folds his ballot so that no one can see how he voted, deposits his ballot before leaving the polling place, and after voting must immediately leave the room.

142 The Officer-Elect.—The candidate who receives the greatest number of votes is the officer-elect.¹ When the time has expired for which his predecessor was elected and before the successful candidate can assume the duties of his office, he must take an oath or affirmation that he will support the Constitution of the United States and the constitution of the State of North Dakota, and that he will faithfully discharge the duties of his office.²

¹ **Plurality and Majority Votes.**—When there are more than two candidates for the same office, the successful candidate is usually elected, not by a majority, but by a plurality vote. The candidate receives a plurality vote when he receives more votes than any other candidate for the same office; he receives a majority vote when he receives more than half the whole number of votes cast for any office.

² Some inferior officers are by law exempted from taking the oath of office. (See *Art. XVII. Sect. 211.*)

CONSTITUTION

OF THE

STATE OF NORTH DAKOTA.

PREAMBLE.

WE, the people of North Dakota, grateful to Almighty God for the blessings of civil and religious liberty, do ordain and establish this Constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are by nature equally free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property and reputation; and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

SEC. 3. The State of North Dakota is an inseparable part of the American Union and the Constitution of the United States is the supreme law of the land.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall be forever guaranteed in this state, and no person shall be rendered incompetent to be a witness or juror on account of his opinion on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended unless when, in case of rebellion or invasion, the public safety may require.

SEC. 6. All persons shall be bailable by sufficient sureties, un-

less for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, nor be confined in any room where criminals are actually imprisoned.

SEC. 7. The right of trial by jury shall be secured to all, and remain inviolate; but a jury in civil cases, in courts not of record, may consist of less than twelve men, as may be prescribed by law.

SEC. 8. Until otherwise provided by law, no person shall, for a felony, be proceeded against criminally otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases, offenses shall be prosecuted criminally by indictment or information. The Legislative Assembly may change, regulate or abolish the grand jury system.

SEC. 9. Every man may freely write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials for libel, the truth may be given in evidence, and shall be a sufficient defense when the matter is published with good motives and for justifiable ends; and the jury shall have the same power of giving a general verdict as in other cases; and in all indictments or informations for libels the jury shall have the right to determine the law and the facts under the direction of the court as in other cases.

SEC. 10. The citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the powers of government for the redress of grievances, or for other proper purposes, by petition, address or remonstrance.

SEC. 11. All laws of a general nature shall have a uniform operation.

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be maintained by this state in time of peace, and no soldiers shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

SEC. 13. In criminal prosecutions in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf; and to appear and defend in person and with counsel. No person shall be twice put in jeopardy for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law.

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court for the owner, and no right of way shall be appropriated to the use of any corporation, other than municipal, until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived.

SEC. 15. No person shall be imprisoned for debt unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases of tort; or where there is strong presumption of fraud.

SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligations of contracts shall ever be passed.

SEC. 17. Neither slavery or involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

SEC. 18. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the person and things to be seized.

SEC. 19. Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

SEC. 20. No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the Legislative Assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens.

SEC. 21. The provisions of this Constitution are mandatory and prohibitory unless, by express words, they are declared to be otherwise.

SEC. 22. All courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial or delay. Suits may be brought against the state in such manner, in such courts, and in such cases, as the Legislative Assembly may by law direct.

SEC. 23. Every citizen of this state shall be free to obtain employment wherever possible, and any person, corporation, or agent

thereof, maliciously interfering or hindering in any way any citizen from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of misdemeanor.

SEC. 24. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.

ARTICLE II.

THE LEGISLATIVE DEPARTMENT.

SEC. 25. The legislative power shall be vested in a senate and house of representatives.

SEC. 26. The senate shall be composed of not less than thirty nor more than fifty members.

SEC. 27. Senators shall be elected for the term of four years except as hereinafter provided.

SEC. 28. No person shall be a senator who is not a qualified elector in the district in which he may be chosen, and who shall not have attained the age of twenty-five years, and have been a resident of the state or territory for two years next preceding his election.

SEC. 29. The Legislative Assembly shall fix the number of senators, and divide the state into as many senatorial districts as there are senators, which districts, as nearly as may be, shall be equal to each other in the number of inhabitants entitled to representation. Each district shall be entitled to one senator and no more, and shall be composed of compact and contiguous territory; and no portion of any county shall be attached to any other county, or part thereof, so as to form a district. The districts as thus ascertained and determined shall continue until changed by law.

SEC. 30. The senatorial districts shall be numbered consecutively from one upwards, according to the number of districts prescribed, and the senators shall be divided into two classes. Those elected in the districts designated by even numbers shall constitute one class, and those elected in districts designated by odd numbers shall constitute the other class. The senators of one class, elected in the year 1890, shall hold their office for two years, those of the other class shall hold their office four years, and the determination of the two classes shall be by lot so that one-half of the senators, as nearly as practicable, may be elected biennially.

SEC. 31. The senate, at the beginning and close of each regular session, and at such other times as may be necessary, shall elect one of its members president pro tempore, who may take the place of the Lieutenant-Governor under rules prescribed by law.

SEC. 32. The house of representatives shall be composed of not less than fifty, nor more than one hundred and forty members.

SEC. 33. Representatives shall be elected for the term of two years.

SEC. 34. No person shall be a representative who is not a qualified elector in the district for which he may be chosen, and who shall not have attained the age of twenty-one years, and have been a resident of the state or territory for two years next preceding his election.

SEC. 35. The members of the house of representatives shall be apportioned to and elected at large from each senatorial district. The Legislative Assembly shall, in the year 1895, and every tenth year, cause an enumeration to be made of all the inhabitants of this state, and shall at its first regular session after each such enumeration, and also after each federal census, proceed to fix by law the number of senators which shall constitute the Senate of North Dakota, and the number of representatives which shall constitute the House of Representatives of North Dakota, within the limits prescribed by this Constitution, and at the same session shall proceed to reapportion the state into senatorial districts, as prescribed by this Constitution, and to fix the number of members of the House of Representatives to be elected from the several senatorial districts; provided, that the Legislative Assembly may, at any regular session, redistrict the state into senatorial districts, and apportion the senators and representatives respectively.

SEC. 36. The house of representatives shall elect one of its members as speaker.

SEC. 37. No judge or clerk of any court, secretary of state, attorney general, register of deeds, sheriff or person holding any office of profit under this state, except in the militia or the office of attorney-at-law, notary public or justice of the peace, and no person holding any office of profit or honor under any foreign government, or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of \$300, shall hold any office in either branch of the Legislative Assembly or become a member thereof.

SEC. 38. No member of the Legislative Assembly, expelled for corruption, and no person convicted of bribery, perjury or other

infamous crime shall be eligible to the Legislative Assembly, or to any office in either branch thereof.

SEC. 39. No member of the Legislative Assembly shall, during the term for which he was elected, be appointed or elected to any civil office in this state, which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected; nor shall any member receive any civil appointment from the governor, or governor and senate, during the term for which he shall have been elected.

SEC. 40. If any person elected to either house of the Legislative Assembly shall offer or promise to give his vote or influence in favor of, or against any measure or proposition pending or proposed to be introduced into the Legislative Assembly, in consideration, or upon conditions, that any other person elected to the same Legislative Assembly will give, or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition, pending or proposed to be introduced into such Legislative Assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the Legislative Assembly shall give his vote or influence for or against any measure or proposition, pending or proposed to be introduced into such Legislative Assembly, or offer, promise or assent so to do upon condition that any other member will give, promise or assent to give his vote or influence in favor of or against any other such measure or proposition pending or proposed to be introduced into such Legislative Assembly, or in consideration that any other member hath given his vote or influence, for or against any other measure or proposition in such Legislative Assembly, he shall be deemed guilty of bribery. And any person, member of the Legislative Assembly or person elected thereto, who shall be guilty of either such offenses, shall be expelled, and shall not thereafter be eligible to the Legislative Assembly, and on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

SEC. 41. The term of service of the members of the Legislative Assembly shall begin on the first Tuesday in January next after their election.

SEC. 42. The members of the Legislative Assembly shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to or returning from the same. For words used in any speech or debate in either house, they shall not be questioned in any other place.

SEC. 43. Any member who has a personal or private interest in any measure or bill proposed or pending before the Legislative Assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon without the consent of the house.

SEC. 44. The Governor shall issue writs of election to fill such vacancies as may occur in either house of the Legislative Assembly.

SEC. 45. Each member of the Legislative Assembly shall receive as a compensation for his services for each session, five dollars per day, and ten cents for every mile of necessary travel in going to and returning from the place of the meeting of the Legislative Assembly, on the most usual route.

SEC. 46. A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such a manner, and under such a penalty, as may be prescribed by law.

SEC. 47. Each house shall be the judge of the election returns and qualifications of its own members.

SEC. 48. Each house shall have the power to determine the rules of proceeding, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribes, or private solicitation, and with the concurrence of two-thirds, to expel a member; and shall have all other powers necessary and usual in the Legislative Assembly of a free state. But no imprisonment by either house shall continue beyond thirty days. Punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

SEC. 49. Each house shall keep a journal of its proceedings, and the yeas and nays on any question shall be taken and entered on the journal at the request of one-sixth of those present.

SEC. 50. The sessions of each house and of the committee of the whole shall be open unless the business is such as ought to be kept secret.

SEC. 51. Neither house shall, without the consent of the other, adjourn for more than three days nor to any other place than that in which the two houses shall be sitting, except in case of epidemic, pestilence or other great danger.

SEC. 52. The senate and house of representatives jointly shall be designated as the Legislative Assembly of the State of North Dakota.

SEC. 53. The Legislative Assembly shall meet at the seat of

government at twelve o'clock noon, on the first Tuesday after the first Monday in January, in the year next following the election of the members thereof.

SEC. 54. In all elections to be made by the Legislative Assembly, or either house thereof, the members shall vote viva voce, and their votes shall be entered in the journal.

SEC. 55. The sessions of the Legislative Assembly shall be biennial, except as otherwise provided in this Constitution.

SEC. 56. No regular sessions of the Legislative Assembly shall exceed sixty days, except in case of impeachment, but the first session of the Legislative Assembly may continue for a period of one hundred and twenty days.

SEC. 57. Any bill may originate in either house of the Legislative Assembly, and a bill passed by one house may be amended by the other.

SEC. 58. No law shall be passed except by a bill adopted by both houses, and no bill shall be so altered and amended on its passage through either house as to change its original purpose.

SEC. 59. The enacting clause of every law shall be as follows: "Be it enacted by the Legislative Assembly of the State of North Dakota."

SEC. 60. No bill for the appropriation of money, except for the expenses of the government, shall be introduced after the fortieth day of the session, except by unanimous consent of the house in which it is sought to be introduced.

SEC. 61. No bill shall embrace more than one subject, which shall be expressed in its title, but a bill which violates this provision shall be invalidated thereby only as to so much thereof as shall not be so expressed.

SEC. 62. The general appropriation bill shall embrace nothing but appropriations for the expenses of the executive, legislative and judicial departments of the state, interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 63. Every bill shall be read three several times, but the first and second readings, and those only, may be upon the same day; and the second reading may be by title of the bill unless a reading at length be demanded. The first and third readings shall be at length. No legislative day shall be shorter than the natural day.

SEC. 64. No bill shall be revised or amended, or the provisions thereof extended or incorporated in any other bill by reference to its title only, but so much thereof as is revised, amended or ex-

tended or so incorporated shall be re-enacted and published at length.

SEC. 65. No bill shall become a law except by a vote of a majority of all the members elect in each house, nor unless, on its final passage, the vote be taken by yeas and nays, and the names of those voting be entered on the journal.

SEC. 66. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the Legislative Assembly; immediately before such signing their title shall be publicly read and the fact of signing shall be at once entered on the journal.

SEC. 67. No act of the Legislative Assembly shall take effect until July 1 after the close of the session, unless in case of emergency (which shall be expressed in the preamble or body of the act) the Legislative Assembly shall, by a vote of two-thirds of all the members present in each house, otherwise direct.

SEC. 68. The Legislative Assembly shall pass all laws necessary to carry into effect the provisions of this Constitution.

SEC. 69. The Legislative Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

1. For granting divorces.
2. Laying out, opening, altering or working roads or highways, vacating roads, town plats, streets, alleys or public grounds.
3. Locating or changing county seats.
4. Regulating county or township affairs.
5. Regulating the practice of courts of justice.
6. Regulating the jurisdiction and duties of justices of the peace, police magistrates or constables.
7. Changing the rules of evidence in any trial or inquiry.
8. Providing for changes of venue in civil or criminal cases.
9. Declaring any person of age.
10. For limitation of civil actions, or giving effect to informal or invalid deed.
11. Summoning or impaneling grand or petit juries.
12. Providing for the management of common schools.
13. Regulating the rate of interest on money.
14. The opening or conducting of any election or designating the place of voting.
15. The sale or mortgage of real estate belonging to minors or others under disability.
16. Chartering or licensing ferries, toll bridges or toll roads.
17. Remitting fines, penalties or forfeitures.

18. Creating, increasing or decreasing fees, percentages or allowances of public officers.
19. Changing the law of descent.
20. Granting to any corporation, association or individual the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever.
21. For the punishment of crimes.
22. Changing the names of persons or places.
23. For the assessment or collection of taxes.
24. Affecting estates of deceased persons, minors or others under legal disabilities.
25. Extending the time for the collection of taxes.
26. Refunding money into the state treasury.
27. Relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this state, or to any municipal corporation therein.
28. Legalizing, except as against the state, the unauthorized or invalid act of any officer.
29. Exempting property from taxation.
30. Restoring to citizenship persons convicted of infamous crimes.
31. Authorizing the creation, extension or impairing of liens.
32. Creating offices, or prescribing the powers or duties of officers in counties, cities, townships, election or school districts, or authorizing the adoption or legitimation of children.
33. Incorporation of cities, towns or villages, or changing or amending the charter of any town, city or village.
34. Providing for the election of members of the board of supervisors in townships, incorporated towns or cities.
35. The protection of game or fish.

SEC. 70. In all other cases where a general law can be made applicable, no special law shall be enacted; nor shall the Legislative Assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

ARTICLE III.

EXECUTIVE DEPARTMENT.

SEC. 71. The executive power shall be vested in a Governor who shall reside at the seat of government, and shall hold his office for the term of two years, and until his successor is elected and duly qualified.

SEC. 72. A Lieutenant-Governor shall be elected at the same time and for the same term as the Governor. In case of the death, impeachment, resignation, failure to qualify, absence from the state, removal from office, or the disability of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability be removed, shall devolve upon the Lieutenant-Governor.

SEC. 73. No person shall be eligible to the office of Governor or Lieutenant-Governor unless he be a citizen of the United States and a qualified elector of the state, who shall have attained the age of thirty years, and who shall have resided five years next preceding the election within the state or territory, nor shall he be eligible to any other office during the term for which he shall have been elected.

SEC. 74. The Governor and Lieutenant-Governor shall be elected by the qualified electors of the state at the time and places of choosing members of the Legislative Assembly. The persons having the highest number of votes for Governor and Lieutenant-Governor respectively shall be declared elected, but if two or more shall have an equal and highest number of votes for Governor or Lieutenant-Governor, the two houses of the Legislative Assembly at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for Governor and Lieutenant-Governor shall be made in such manner as shall be prescribed by law.

SEC. 75. The Governor shall be Commander-in-Chief of the military and naval forces of the state, except when they shall be called into the service of the United States, and may call out the same to execute the laws, suppress insurrection and repel invasion. He shall have power to convene the Legislative Assembly on extraordinary occasions. He shall at the commencement of each session communicate to the Legislative Assembly by message, information of the condition of the state, and recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislative Assembly and shall take care that the laws be faithfully executed.

SEC. 76. The Governor shall have power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment; but the Legislative Assembly may by law regulate the manner in which the remission of fines, pardons, commutations

and reprieves may be applied for. Upon conviction for treason he shall have power to suspend the execution of sentence until the case shall be reported to the Legislative Assembly at its next regular session, when the Legislative Assembly shall either pardon or commute the sentence, direct the execution of the sentence or grant further reprieve. He shall communicate to the Legislative Assembly at each regular session each case of remission of fine, reprieve, commutation or pardon granted by him, stating the name of the convict, the crime for which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reason for granting the same.

SEC. 77. The Lieutenant-Governor shall be president of the senate, but shall have no vote unless they be equally divided. If, during a vacancy in the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign or die, or from mental or physical disease, or otherwise become incapable of performing the duties of his office, the Secretary of State shall act as Governor until the vacancy shall be filled or the disability removed.

SEC. 78. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution or law for filling such vacancy, the Governor shall have power to fill such vacancy by appointment.

SEC. 79. Every bill which shall have passed the Legislative Assembly shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign, but if not, he shall return it, with his objections, to the house in which it originated, which shall enter the objections at large upon the journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elect shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members elect, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journal of each house respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the Legislative Assembly, by its adjournment, prevent its return, in which case it shall be a law, unless he shall file the same with his objections in the office of Secretary of State, within fifteen days after such adjournment.

SEC. 80. The Governor shall have power to disapprove of any item or items, or part or parts of any bill making appropriations of

money or property embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items, and part or parts disapproved shall be void, unless enacted in the following manner: If the Legislative Assembly be in session he shall transmit to the house in which the bill originated a copy of the item or items, or part or parts thereof disapproved, together with his objections thereto, and the items or parts objected to shall be separately reconsidered, and each item or part shall then take the same course as is prescribed for the passage of bills over the executive veto.

SEC. 81. Any Governor of this state who asks, receives or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives or offers, or promises his official influence in consideration that any member of the Legislative Assembly shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power, or who offers or promises any member that he, the said Governor, will appoint any particular person or persons to any office created or thereafter to be created, in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said Legislative Assembly, or who threatens any member that he, the said Governor, will remove any person or persons from office or position with intent in any manner to influence the action of said member, shall be punished in the manner now or that may hereafter be provided by law, and upon conviction thereof shall forfeit all right to hold or exercise any office of trust or honor in this state.

SEC. 82. There shall be chosen by the qualified electors of the state at the times and places of choosing members of the Legislative Assembly, a Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, three Commissioners of Railroads, an Attorney General and one Commissioner of Agriculture and Labor, who shall have attained the age of twenty-five years, shall be citizens of the United States, and shall have the qualifications of state electors. They shall severally hold their offices at the seat of government, for the term of two years and until their successors are elected and duly qualified, but no person shall be eligible to the office of treasurer for more than two consecutive terms.

SEC. 83. The powers and duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner

of Insurance, Commissioners of Railroads, Attorney General and Commissioner of Agriculture and Labor, shall be as prescribed by law.

SEC. 84. Until otherwise provided by law, the Governor shall receive an annual salary of three thousand dollars; the Lieutenant Governor shall receive an annual salary of one thousand dollars; the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, Commissioners of Railroads and Attorney General shall each receive an annual salary of two thousand dollars; the salary of the Commissioner of Agriculture and Labor shall be as prescribed by law, but the salaries of any of the said officers shall not be increased or diminished during the period for which they shall have been elected, and all fees and profits arising from any of the said offices shall be covered into the state treasury.

ARTICLE IV.

JUDICIAL DEPARTMENT.

SEC. 85. The judicial power of the State of North Dakota shall be vested in a supreme court, district courts, county courts, justices of the peace, and in such other courts as may be created by law for cities, incorporated towns and villages.

SEC. 86. The supreme court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state, and shall have a general superintending control over all inferior courts under such regulations and limitations as may be prescribed by law.

SEC. 87. It shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction, and such other original and remedial writs as may be necessary to the proper exercise of its jurisdiction, and shall have authority to hear and determine the same; provided, however, that no jury trials shall be allowed in said supreme court, but in proper cases questions of fact may be sent by said court to a district court for trial.

SEC. 88. Until otherwise provided by law three terms of the supreme court shall be held each year, one at the seat of government, one at Fargo in the county of Cass, and one at Grand Forks in the county of Grand Forks.

SEC. 89. The supreme court shall consist of three judges, a majority of whom shall be necessary to form a quorum or pronounce a decision, but one or more of said judges may adjourn the court from day to day or to a day certain.

SEC. 90. The judges of the supreme court shall be elected by

the qualified electors of the state at large, and except as may be otherwise provided herein for the first election for judges under this Constitution, said judges shall be elected at general elections.

SEC. 91. The term of office of the judges of the supreme court, except as in this article otherwise provided, shall be six years, and they shall hold their offices until their successors are duly qualified.

SEC. 92. The judges of the supreme court shall, immediately after the first election under this Constitution, be classified by lot, so that one shall hold his office for the term of three years, one for the term of five years, and one for the term of seven years from the first Monday in December, A. D. 1889. The lots shall be drawn by the judges, who shall for that purpose assemble at the seat of government, and they shall cause the result thereof to be certified to the Secretary of the Territory and filed in his office, unless the Secretary of State of North Dakota shall have entered upon the duties of his office, in which event said certification shall be filed therein. The judge having the shortest term to serve, not holding his office by election or appointment to fill a vacancy, shall be chief justice and shall preside at all terms of the supreme court, and in case of his absence the judge having in like manner the next shortest term to serve shall preside in his stead.

SEC. 93. There shall be a clerk and also a reporter of the supreme court, who shall be appointed by the judges thereof, and who shall hold their offices during the pleasure of said judges, and whose duties and emoluments shall be prescribed by law and by rules of the supreme court not inconsistent with law. The Legislative Assembly shall make provision for the publication and distribution of the decisions of the supreme court and for the sale of the published volumes thereof.

SEC. 94. No person shall be eligible to the office of judge of the supreme court unless he be learned in the law, be at least thirty years of age and a citizen of the United States, nor unless he shall have resided in this State or Territory of Dakota three years next preceding his election.

SEC. 95. Whenever the population of the State of North Dakota shall equal six hundred thousand the Legislative Assembly shall have the power to increase the number of the judges of the supreme court to five, in which event a majority of said court, as thus increased, shall constitute a quorum.

SEC. 96. No duties shall be imposed by law upon the supreme court or any of the judges thereof, except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided.

SEC. 97. The style of all process shall be "The State of North Dakota." All prosecutions shall be carried on in the name and by the authority of the State of North Dakota, and conclude "against the peace and dignity of the State of North Dakota."

SEC. 98. Any vacancy happening by death, resignation or otherwise in the office of judge of the supreme court shall be filled by appointment by the Governor, which appointment shall continue until the first general election thereafter, when said vacancy shall be filled by election.

SEC. 99. The judges of the supreme and district courts shall receive such compensation for their services as may be prescribed by law, which compensation shall not be increased or diminished during the term for which a judge shall have been elected.

SEC. 100. In case a judge of the supreme court shall be in any way interested in a cause brought before said court, the remaining judges of said court shall call one of the district judges to sit with them on the hearing of said cause.

SEC. 101. When a judgment or decree is reversed or confirmed by the supreme court every point fairly arising upon the record of the case shall be considered and decided, and the reasons therefor shall be concisely stated in writing, signed by the judges concurring, filed in the office of the clerk of the supreme court, and preserved with a record of the case. Any judge dissenting therefrom may give the reasons of his dissent in writing over his signature.

SEC. 102. It shall be the duty of the court to prepare a syllabus of the points adjudicated in each case, which shall be concurred in by a majority of the judges thereof, and it shall be prefixed to the published reports of the case.

DISTRICT COURTS.

SEC. 103. The district court shall have original jurisdiction, except as otherwise provided in this Constitution, of all causes both at law and equity, and such appellate jurisdiction as may be conferred by law. They and the judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same.

SEC. 104. The state shall be divided into six judicial districts, in each of which there shall be elected at general elections, by the electors thereof, one judge of the district court therein, whose term of office shall be four years from the first Monday in January succeeding his election and until his successor is duly qualified. This

section shall not be construed as governing the first election of district judges under this Constitution.

SEC. 105. Until otherwise provided by law said districts shall be constituted as follows:

District No. One shall consist of the counties of Pembina, Cavalier, Walsh, Nelson and Grand Forks.

District No. Two shall consist of the counties of Ramsey, Towner, Benson, Pierce, Rolette, Bottineau, McHenry, Church, Renville, Ward, Stevens, Mountrail, Garfield, Flannery and Buford.

District No. Three shall consist of the counties of Cass, Steele and Traill.

District No. Four shall consist of the counties of Richland, Ransom, Sargent, Dickey and McIntosh.

District No. Five shall consist of the counties of Logan, LaMoure, Stutsman, Barnes, Wells, Foster, Eddy and Griggs.

District No. Six shall consist of the counties of Burleigh, Emmons, Kidder, Sheridan, McLean, Morton, Oliver, Mercer, Williams, Stark, Hettinger, Bowman, Billings, McKenzie, Dunn, Wallace and Allred, and that portion of the Sioux Indian Reservation lying north of the seventh standard parallel.

SEC. 106. The Legislative Assembly may, whenever two-thirds of the members of each house shall concur therein, but not oftener than once in four years, increase the number of said judicial districts and the judges thereof; such districts shall be formed from compact territory and bounded by county lines, but such increase or change in the boundaries of the districts shall not work the removal of any judge from his office during the term for which he may have been elected or appointed.

SEC. 107. No person shall be eligible to the office of district judge unless he be learned in the law, be at least twenty-five years of age and a citizen of the United States, nor unless he shall have resided within the State or Territory of Dakota at least two years next preceding his election, nor unless he shall at the time of his election be an elector within the judicial district for which he is elected.

SEC. 108. There shall be a clerk of the district court in each organized county in which a court is holden who shall be elected by the qualified electors of the county, and shall hold his office for the same term as other county officers. He shall receive such compensation for his services as may be prescribed by law.

SEC. 109. Writs of error and appeals may be allowed from the decisions of the district courts to the supreme court under such regulations as may be prescribed by law.

COUNTY COURTS.

SEC. 110. There shall be established in each county a county court, which shall be a court of record, open at all times, and holden by one judge elected by the electors of the county, and whose term of office shall be two years.

SEC. 111. The county court shall have exclusive original jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators and guardians, the sale of lands by executors, administrators and guardians, and such other probate jurisdiction as may be conferred by law; provided, that whenever the voters of any county having a population of two thousand or over shall decide by a majority vote that they desire the jurisdiction of said court increased above that limited by this Constitution, then said county courts shall have concurrent jurisdiction with the district courts in all civil actions where the amount in controversy does not exceed one thousand dollars, and in all criminal actions below the grade of felony, and in case it is decided by the voters of any county to so increase the jurisdiction of said county court, the jurisdiction in cases of misdemeanors arising under state laws which may have been conferred upon police magistrates, shall cease. The qualifications of the judge of the county court in counties where the jurisdiction of said court shall have been increased shall be the same as those of the district judge, except that he shall be a resident of the county at the time of his election, and said county judge shall receive such salary for his services as may be provided by law. In case the voters of any county decide to increase the jurisdiction of said county courts, then such jurisdiction as thus increased shall remain until otherwise provided by law.

JUSTICES OF THE PEACE.

SEC. 112. The Legislative Assembly shall provide by law for the election of justices of the peace in each organized county within the state. But the number of said justices to be elected in each organized county shall be limited by law to such a number as shall be necessary for the proper administration of justice. The justices of the peace herein provided for shall have concurrent jurisdiction with the district court in all civil actions when the amount in controversy, exclusive of costs, does not exceed two hundred dollars, and in counties where no county court with criminal jurisdiction exists they shall have such jurisdiction to hear and determine cases of misdemeanor as may be provided by law, but in no case shall

said justices of the peace have jurisdiction when the boundaries of or title to real estate shall come in question. The Legislative Assembly shall have power to abolish the office of justice of the peace and confer that jurisdiction upon judges of county courts or elsewhere.

POLICE MAGISTRATES.

SEC. 113. The Legislative Assembly shall provide by law for the election of police magistrates in cities, incorporated towns and villages, who in addition to their jurisdiction of all cases arising under the ordinances of said cities, towns and villages, shall be ex-officio justices of the peace of the county in which said cities, towns and villages may be located. And the Legislative Assembly may confer upon said police magistrates the jurisdiction to hear, try and determine all cases of misdemeanors, and the prosecutions therein shall be by information.

SEC. 114. Appeals shall lie from the county court, final decisions of justices of the peace and police magistrates in such cases and pursuant to such regulations as may be prescribed by law.

MISCELLANEOUS.

SEC. 115. The time of holding courts in the several counties of a district shall be as prescribed by law, but at least two terms of the district court shall be held annually in each organized county, and the Legislative Assembly shall make provisions for attaching unorganized counties or territories to organized counties for judicial purposes.

SEC. 116. Judges of the district courts may hold court in other districts than their own under such regulations as shall be prescribed by law.

SEC. 117. No judge of the supreme or district court shall act as attorney or counselor at law.

SEC. 118. Until the Legislative Assembly shall provide by law for fixing the terms of courts, the judges of the supreme and district courts shall fix the terms thereof.

SEC. 119. No judge of the supreme or district court shall be elected or appointed to any other than judicial offices or be eligible thereto during the term for which he was elected or appointed such judge. All votes or appointments for either of them for any elective or appointive office except that of judge of the supreme court or district court, given by the Legislative Assembly or the people, shall be void.

SEC. 120. Tribunals of conciliation may be established with such powers and duties as shall be prescribed by law, or the powers and duties of such may be conferred upon other courts of justice ; but such tribunals or other courts when sitting as such, shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference and agree to abide the judgment of such tribunals or courts.

ARTICLE V.

ELECTIVE FRANCHISE.

SEC. 121. Every male person of the age of twenty-one years or upwards belonging to either of the following classes, who shall have resided in the state one year, in the county six months and in the precinct ninety days next preceding any election, shall be deemed a qualified elector at such election :

First. Citizens of the United States.

Second. Persons of foreign birth who shall have declared their intention to become citizens, one year and not more than six years prior to such election, conformably to the naturalization laws of the United States.

Third. Civilized persons of Indian descent who shall have severed their tribal relations two years next preceding such election.

SEC. 122. The Legislative Assembly shall be empowered to make further extensions of suffrage hereafter, at its discretion to all citizens of mature age and sound mind, not convicted of crime, without regard to sex ; but no law extending or restricting the right of suffrage shall be in force until adopted by a majority of the electors of the state voting at a general election.

SEC. 123. Electors shall in all cases except treason, felony, breach of the peace or illegal voting, be privileged from arrest on the days of election during their attendance at, going to and returning from such election and no elector shall be obliged to perform military duty on the day of election, except in time of war or public danger.

SEC. 124. The general election of the state shall be biennial, and shall be held on the first Tuesday after the first Monday in November ; provided, that the first general election under this Constitution shall be held on the first Tuesday after the first Monday in November, A. D. 1890.

SEC. 125. No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United

States or of this state, or in the military or naval service of the United States.

SEC. 126. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of his being stationed therein.

SEC. 127. No person who is under guardianship, non compos mentis or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony, unless restored to civil rights.

SEC. 128. Any woman having qualifications enumerated in section 121 of this article as to age, residence and citizenship, and including those now qualified by the laws of the territory, may vote for all school officers, and upon all questions pertaining solely to school matters, and be eligible to any school office.

SEC. 129. All elections by the people shall be by secret ballot, subject to such regulations as shall be provided by law.

ARTICLE VI.

MUNICIPAL CORPORATION.

SEC. 130. The Legislative Assembly shall provide by general law for the organization of municipal corporations, restricting their powers as to levying taxes and assessments, borrowing money and contracting debts, and money raised by taxation, loan or assessment for any purpose shall not be diverted to any other purpose except by authority of law.

ARTICLE VII.

CORPORATIONS OTHER THAN MUNICIPAL.

SEC. 131. No charter of incorporation shall be granted, changed or amended by special law, except in the case of such municipal, charitable, educational, penal or reformatory corporations as may be under the control of the state; but the Legislative Assembly shall provide by general laws for the organization of all corporations hereafter to be created, and any such law, so passed, shall be subject to future repeal or alteration.

SEC. 132. All existing charters or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place and business been commenced in good faith at the time this Constitution takes effect, shall thereafter have no validity.

SEC. 133. The Legislative Assembly shall not remit the forfeiture of the charter to any corporation now existing, nor alter or amend the same, nor pass any other general or special law for the

benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution,

SEC. 134. The exercise of the right of eminent domain shall never be abridged, or so construed as to prevent the Legislative Assembly from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of this state shall never be abridged, or so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals or the general well-being of the state.

SEC. 135. In all elections for directors or managers of a corporation each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

SEC. 136. No foreign corporation shall do business in this state without having one or more places of business and an authorized agent or agents in the same, upon whom process may be served.

SEC. 137. No corporation shall engage in any business other than that expressly authorized in its charter.

SEC. 138. No corporation shall issue stock or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void.

The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting to be held after sixty days' notice given in pursuance of law.

SEC. 139. No law shall be passed by the Legislative Assembly granting the right to construct and operate a street railroad, telegraph, telephone or electric light plant within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied for such purposes.

SEC. 140. Every railroad corporation organized and doing business in this state, under the laws or authority thereof, shall have and maintain a public office or place in the state for the transaction of its business, where transfers of its stock shall be made and in which shall be kept for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock and the amount owned by them respectively; the amount of stock paid in and by whom, and

the transfers of said stock ; the amount of its assets and liabilities and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts, or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the Legislative Assembly shall pass laws enforcing by suitable penalties the provisions of this section. Provided, the provisions of this section shall not be so construed as to apply to foreign corporations.

SEC. 141. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line ; and in no case shall any consolidation take place except upon public notice given at least sixty days to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section, by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

SEC. 142. Railways heretofore constructed or that may hereafter be constructed in this state are hereby declared public highways, and all railroad, sleeping car, telegraph, telephone and transportation companies of passengers, intelligence and freight, are declared to be common carriers and subject to legislative control ; and the Legislative Assembly shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers, intelligence and freight, as such common carriers from one point to another in this state ; provided, that appeal may be had to the courts of this state from the rates so fixed ; but the rates fixed by the Legislative Assembly or board of railroad commissioners shall remain in force pending the decision of the courts.

SEC. 143. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with the railroads of other states. Every railroad company shall have the right with its road to intersect, connect with or cross any other ; and shall receive and transport each other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

SEC. 144. The term "corporation," as used in this article, shall not be understood as embracing municipalities or political divisions of the state unless otherwise expressly stated, but it shall be held and construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships.

SEC. 145. If a general banking law be enacted, it shall provide for the registry and countersigning by an officer of the state, of all notes or bills designed for circulation, and that ample security to the full amount thereof shall be deposited with the state treasurer for the redemption of such notes or bills.

SEC. 146. Any combination between individuals, corporations, associations, or either, having for its object or effect the controlling of the price of any product of the soil or any article of manufacture or commerce, or the cost of exchange or transportation, is prohibited and hereby declared unlawful and against public policy; and any and all franchises heretofore granted or extended or that may hereafter be granted or extended in this state, whenever the owner or owners thereof violate this article, shall be deemed annulled and become void.

ARTICLE VIII.

EDUCATION.

SEC. 147. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the Legislative Assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the State of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

SEC. 148. The Legislative Assembly shall provide at its first session, after the adoption of this Constitution, for a uniform system of free public schools throughout the state; beginning with the primary and extending through all grades up to and including the normal and collegiate course.

SEC. 149. In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind.

SEC. 150. A superintendent of schools for each county shall be elected every two years, whose qualifications, duties, powers and compensation shall be fixed by law.

SEC. 151. The Legislative Assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study and to promote industrial, scientific and agricultural improvement.

SEC. 152. All colleges, universities and other educational insti-

tutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school.

ARTICLE IX.

SCHOOL AND PUBLIC LANDS.

SEC. 153. All proceeds of the public lands that have heretofore been, or may hereafter be granted by the United States for the support of the common schools in this state; all such per centum as may be granted by the United States on the sale of public lands; the proceeds of property that shall fall to the state by escheat; the proceeds of all gifts and donations to the state for common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, shall be and remain a perpetual fund for the maintenance of the common schools of the state. It shall be deemed a trust fund, the principal of which shall forever remain inviolate and may be increased but never diminished. The state shall make good all losses thereof.

SEC. 154. The interest and income of this fund, together with the net proceeds of all fines for violation of state laws, and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the common schools of the state, and shall be for this purpose apportioned among and between all the several common school corporations of the state in proportion to the number of children in each of school age, as may be fixed by law, and no part of the fund shall ever be diverted even temporarily from this purpose or used for any other purpose whatever than the maintenance of common schools for the equal benefit of all the people of the state; provided, however, that if any portion of the interest or income aforesaid be not expended during any year, said portion shall be added to and become a part of the school fund.

SEC. 155. After one year from the assembling of the first Legislative Assembly, the lands granted to the state from the United States for the support of the common schools, may be sold upon the following conditions, and no other: No more than one-fourth of all such lands shall be sold within the first five years after the same become saleable by virtue of this section. No more than one-half of the remainder within ten years after the same become saleable as aforesaid. The residue may be sold at any time after the expi-

ration of said ten years. The Legislative Assembly shall provide for the sale of all school lands subject to the provisions of this article. The coal lands of the state shall never be sold, but the Legislative Assembly may by general law provide for leasing the same; the words "coal lands" shall include lands bearing lignite coal.

SEC. 156. The Superintendent of Public Instruction, Governor, Attorney-General, Secretary of State and State Auditor shall constitute a board of commissioners, which shall be denominated the "Board of University and School Lands," and subject to the provisions of this article and any law that may be passed by the Legislative Assembly; said board shall have control of the appraisal, sale, rental and disposal of all school and university lands, and shall direct the investment of the funds arising therefrom in the hands of the State Treasurer, under the limitations of section 160 of this article.

SEC. 157. The county superintendent of common schools, the chairman of the county board, and the county auditor, shall constitute boards of appraisal, and under the authority of state board of university and school lands shall appraise all school lands within their respective counties which they may from time to time recommend for sale at their actual value under the prescribed terms and shall first select and designate for sale the most valuable lands.

SEC. 158. No land shall be sold for less than the appraised value, and in no case for less than ten dollars per acre. The purchaser shall pay one-fifth of the price in cash and the remaining four-fifths as follows: One-fifth in five years, one-fifth in ten years, one-fifth in fifteen years, and one-fifth in twenty years, with interest at the rate of not less than six per centum payable annually in advance. All sales shall be held at the county seat of the county in which the land to be sold is situate, and shall be at public auction and to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of one-quarter section, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within two years after appraisal shall be reappraised before they are sold. No grant or patent for any such lands shall issue until payment is made for the same; provided, that the lands contracted to be sold by the state, shall be subject to taxation from the date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following

year, then and thereupon the contract of sale for such lands shall become null and void.

SEC. 159. All land, money or other property donated, granted or received from the United States or any other source for a University, School of Mines, Reform School, Agricultural College, Deaf and Dumb Asylum, Normal School or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased but shall never be diminished, and the interest and income only shall be used. Every fund shall be deemed a trust fund held by the state, and the state shall make good all losses thereof.

SEC. 160. All land mentioned in the preceding section shall be appraised and sold in the same manner and under the same limitations and subject to all the conditions as to price and sale as provided above for the appraisal and sale of lands for the benefit of common schools; but a distinct and separate account shall be kept by the proper officers of each of said funds; provided, that the limitations as to the time in which school land may be sold shall apply only to lands granted for the support of common schools.

SEC. 161. The Legislative Assembly shall have authority to provide by law for the leasing of lands granted to the state for educational and charitable purposes; but no such law shall authorize the leasing of said lands for a longer period than five years. Said land shall only be leased for pasturage and meadow purposes and at a public auction after notice as heretofore provided in case of sale; provided, that all of said school lands now under cultivation may be leased at the discretion and under the control of the board of university and school lands, for other than pasturage and meadow purposes until sold. All rents shall be paid in advance.

SEC. 162. The moneys of the permanent school fund and other educational funds shall be invested only in bonds of school corporations within the state, bonds of the United States, bonds of the State of North Dakota or in first mortgages on farm lands in the state, not exceeding in amount one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisers of school lands.

SEC. 163. No law shall ever be passed by the Legislative Assembly granting to any person, corporation or association any privileges by reason of the occupation, cultivation or improvement of

any public lands by said person, corporation or association subsequent to the survey thereof by the general government. No claim for the occupation, cultivation or improvement of any public lands shall ever be recognized, nor shall such occupation, cultivation or improvement of any public lands ever be used to diminish either directly or indirectly the purchase price of said lands.

SEC. 164. The Legislative Assembly shall have authority to provide by law for the sale or disposal of all public lands that have been heretofore, or may hereafter be granted by the United States to the state for purposes other than set forth and named in sections 153 and 159 of this article. And the Legislative Assembly, in providing for the appraisement, sale, rental and disposal of the same shall not be subject to the provisions and limitations of this article.

SEC. 165. The Legislative Assembly shall pass suitable laws for the safe keeping, transfer and disbursement of the state school funds; and shall require all officers charged with the same or the safe keeping thereof to give ample bonds for all moneys and funds received by them, and if any of said officers shall convert to his own use in any manner or form, or shall loan with or without interest or shall deposit in his own name, or otherwise than in the name of the State of North Dakota or shall deposit in any banks or with any person or persons, or exchange for other funds or property any portion of the school funds aforesaid, or purposely allow any portion of the same to remain in his own hands uninvested except in the manner prescribed by law, every such act shall constitute an embezzlement of so much of the aforesaid school funds as shall be thus taken or loaned, or deposited, or exchanged, or withheld, and shall be a felony; and any failure to pay over, produce or account for, the state school funds or any part of the same entrusted to any such officer, as by law required or demanded, shall be held and be taken to be prima facie evidence of such embezzlement.

ARTICLE X.

COUNTY AND TOWNSHIP ORGANIZATION.

SEC. 166. The several counties in the Territory of Dakota lying north of the Seventh Standard parallel as they now exist, are hereby declared to be counties of the State of North Dakota.

SEC. 167. The Legislative Assembly shall provide by general law for organizing new counties, locating the county seats thereof temporarily, and changing county lines; but no new county shall be organized, nor shall any organized county be so reduced as to include an area of less than twenty-four congressional townships,

and containing a population of less than one thousand bona fide inhabitants. And in the organization of new counties and in changing the lines of organized counties and boundaries of congressional townships, natural boundaries shall be observed as nearly as may be.

SEC. 168. All changes in the boundaries of organized counties before taking effect shall be submitted to the electors of the county or counties to be affected thereby, at a general election, and be adopted by a majority of all the legal votes cast in each county at such election; and in case any portion of an organized county is stricken off and added to another, the county to which such portion is added shall assume and be holden for an equitable proportion of the indebtedness of the county so reduced.

SEC. 169. The Legislative Assembly shall provide by general law for changing county seats in organized counties, but it shall have no power to remove the county seat of any organized county.

SEC. 170. The Legislative Assembly shall provide by general law for township organization under which any county may organize, whenever a majority of all the legal voters of such county, voting at a general election, shall so determine; and whenever any county shall adopt township organization, so much of this Constitution as provides for the management of the fiscal concerns of said county by the board of county commissioners may be dispensed with by a majority vote of the people voting at any general election; and the affairs of said county may be transacted by the chairmen of the several township boards of said county, and such others as may be provided by law for incorporated cities, towns or villages within such county.

SEC. 171. In any county that shall have adopted a system of government by the chairmen of the several township boards, the question of continuing the same may be submitted to the electors of such county at a general election in such a manner as may be provided by law, and if a majority of all the votes cast upon such questions shall be against said system of government, then such system shall cease in said county, and the affairs of said county shall then be transacted by a board of county commissioners as is now provided by the laws of the Territory of Dakota.

SEC. 172. Until the system of county government by the chairmen of the several township boards is adopted by any county the fiscal affairs of said county shall be transacted by a board of county commissioners. Said board shall consist of not less than three and not more than five members whose term of office shall be prescribed by law. Said board shall hold sessions for the transaction of county business as shall be provided by law.

SEC. 173. At the first general election held after the adoption of this Constitution, and every two years thereafter, there shall be elected in each organized county in the state a county judge, clerk of court, register of deeds, county auditor, treasurer, sheriff and state's attorney, who shall be electors of the county in which they are elected and who shall hold their office until their successors are elected and qualified. The Legislative Assembly shall provide by law for such other county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers. The sheriff and treasurer of any county shall not hold their respective offices for more than four years in succession.

ARTICLE XI.

REVENUE AND TAXATION.

SEC. 174. The Legislative Assembly shall provide for raising revenue sufficient to defray the expenses of the state for each year, not to exceed in any one year four (4) mills on the dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes, and also a sufficient sum to pay the interest on the state debt.

SEC. 175. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

SEC. 176. Laws shall be passed taxing by uniform rule all property according to its true value in money, but the property of the United States and the state, county and municipal corporations, both real and personal, shall be exempt from taxation, and the Legislative Assembly shall by a general law exempt from taxation property used exclusively for school, religious, cemetery or charitable purposes, and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation; but the Legislative Assembly may, by law, provide for the payment of a per centum of gross earnings of railroad companies to be paid in lieu of all state, county, township and school taxes on property exclusively used in and about the prosecution of the business of such companies as common carriers, but no real estate of said corporations shall be exempted from taxation in the same manner, and on the same basis as other real estate is taxed, except road-bed, right-of-way, shops and buildings used exclusively in their business as common carriers, and whenever and so long as such law providing for the payment of a per centum on earnings shall

be in force, that part of section 179 of this article relating to assessment of railroad property shall cease to be in force.

SEC. 177. All improvements on land shall be assessed in accordance with section 179, but plowing shall not be considered as an improvement or add to the value of land for the purpose of assessment.

SEC. 178. The power of taxation shall never be surrendered or suspended by any grant or contract to which the state or any county or other municipal corporation shall be a party.

SEC. 179. All property, except as hereinafter in this section provided, shall be assessed in the county, city, township, town, village or district in which it is situated, in the manner prescribed by law. The franchise, roadway, roadbed, rails and rolling stock of all railroads operated in this state shall be assessed by the state board of equalization at their actual value and such assessed valuation shall be apportioned to the counties, cities, towns, townships, and districts in which said roads are located, as a basis for taxation of such property, in proportion to the number of miles of railway laid in such counties, cities, towns, townships and districts.

SEC. 180. The Legislative Assembly may provide for the levy, collection and disposition of an annual poll tax of not more than one dollar and fifty cents (\$1.50) on every male inhabitant of this state over twenty-one and under fifty years of age, except paupers, idiots, insane persons and Indians not taxed.

SEC. 181. The Legislative Assembly shall pass all laws necessary to carry out the provisions of this article.

ARTICLE XII.

PUBLIC DEBT AND PUBLIC WORKS.

SEC. 182. The state may, to meet casual deficits or failure in the revenue, or in case of extraordinary emergencies, contract debts, but such debts shall never in the aggregate exceed the sum of two hundred thousand dollars, exclusive of what may be the debt of North Dakota at the time of the adoption of this Constitution. Every such debt shall be authorized by law for certain purposes to be definitely mentioned therein, and every such law shall provide for levying an annual tax sufficient to pay the interest semi-annually, and the principal within thirty years from the passage of such law, and shall specially appropriate the proceeds of such tax to the payment of said principal and interest, and such appropriation shall not be repealed nor the tax discontinued until such debt, both principal and interest, shall have been fully paid. No debt in excess

of the limit named shall be incurred except for the purpose of repelling invasion, suppressing insurrection, defending the state in time of war, or to provide for public defense in case of threatened hostilities; but the issuing of new bonds to refund existing indebtedness, shall not be construed to be any part or portion of said two hundred thousand dollars.

SEC. 183. The debt of any county, township, town, school district or any other political subdivision, shall never exceed five (5) per centum upon the assessed value of the taxable property therein; provided, that any incorporated city may, by a two-thirds vote, increase such indebtedness three (3) per centum on such assessed value beyond said five (5) per cent. limit. In estimating the indebtedness which a city, county, township, school district or any other political subdivision may incur, the entire amount of existing indebtedness, whether contracted prior or subsequent to the adoption of this Constitution shall be included; provided further, that any incorporated city may become indebted in any amount not exceeding four (4) per centum on such assessed value without regard to the existing indebtedness of such city, for the purpose of constructing or purchasing water works for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, and for no other purpose whatever. All bonds or obligations in excess of the amount of indebtedness permitted by this Constitution, given by any city, county, township, town, school district, or any other political subdivision, shall be void.

SEC. 184. Any city, county, township, town, school district, or any other political subdivision incurring indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

SEC. 185. Neither the state nor any county, city, township, town, school district or any other political subdivision shall loan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor shall the state engage in any work of internal improvement unless authorized by a two-thirds vote of the people.

SEC. 186. No money shall be paid out of the state treasury except upon appropriation by law and on warrant drawn by the proper officer and no bills, claims, accounts or demands against the state,

or any county or other political subdivision, shall be audited, allowed or paid until a full itemized statement in writing shall be filed with the officer or officers whose duty it may be to audit the same.

SEC. 187. No bond or evidence of indebtedness of the state shall be valid unless the same shall have indorsed thereon a certificate, signed by the Auditor and Secretary of State, that the bond or evidence of debt is issued pursuant to law and is within the debt limit. No bond or evidence of debt of any county, or bond of any township or other political subdivision shall be valid unless the same have endorsed thereon a certificate signed by the county auditor, or other officer authorized by law to sign such certificate, stating that said bond, or evidence of debt, is issued pursuant to law and is within the debt limit.

ARTICLE XIII.

MILITIA.

SEC. 188. The militia of this state shall consist of all able-bodied male persons residing in the state, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or of this state. Persons whose religious tenets or conscientious scruples forbid them to bear arms shall not be compelled to do so in times of peace, but shall pay an equivalent for a personal service.

SEC. 189. The militia shall be enrolled, organized, uniformed, armed and disciplined in such a manner as shall be provided by law, not incompatible with the Constitution or laws of the United States.

SEC. 190. The Legislative Assembly shall provide by law for the establishment of volunteer organizations of the several arms of the service, which shall be classed as active militia, and no other organized body of armed men shall be permitted to perform military duty in this state, except the army of the United States, without the proclamation of the Governor of the state.

SEC. 191. All militia officers shall be appointed or elected in such a manner as the Legislative Assembly shall provide.

SEC. 192. The commissioned officers of the militia shall be commissioned by the Governor, and no commissioned officer shall be removed from office except by sentence of court martial, pursuant to law.

SEC. 193. The militia forces shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at musters, parades and election of officers, and in going to and returning from the same.

ARTICLE XIV.

IMPEACHMENT AND REMOVAL FROM OFFICE.

SEC. 194. The House of Representatives shall have the sole power of impeachment. The concurrence of a majority of all members elected shall be necessary to an impeachment.

SEC. 195. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be upon oath, or affirmation to do justice according to the law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the Governor or Lieutenant Governor is on trial, the presiding judge of the supreme court shall preside.

SEC. 196. The governor and other state and judicial officers, except county judges, justices of the peace and police magistrates, shall be liable to impeachment for habitual drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of trust or profit under the state. The person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

SEC. 197. All officers not liable to impeachment shall be subject to removal for misconduct, malfeasance, crime or misdemeanor in office, or for habitual drunkenness or gross incompetency, in such manner as may be provided by law.

SEC. 198. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

SEC. 199. On trial of impeachment against the Governor, the Lieutenant Governor shall not act as a member of the court.

SEC. 200. No person shall be tried on impeachment before he shall have been served with a copy thereof, at least twenty days previous to the day set for trial.

SEC. 201. No person shall be liable to impeachment twice for the same offense.

ARTICLE XV.

FUTURE AMENDMENTS.

SEC. 202. Any amendment or amendments to this Constitution may be proposed in either House of the Legislative Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on the journal of the house with the yeas and nays taken thereon, and referred to the Legislative Assembly to be chosen at

the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice; and if in the Legislative Assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislative Assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the Legislative Assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the Legislative Assembly voting thereon, such amendment or amendments shall become a part of the Constitution of this state. If two or more amendments shall be submitted at the same time they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

ARTICLE XVI.

COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of this state :

SEC. 203. First. Perfect toleration of religious sentiment shall be secured, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

Second. The people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and that said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without this state shall never be taxed at a higher rate than the lands belonging to residents of this state; that no taxes shall be imposed by this state on lands or property therein belonging to, or which may hereafter be purchased by the United States, or reserved for its use. But nothing in this article shall preclude this state from taxing as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person, a title

thereto, by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any acts of Congress containing a provision exempting the lands thus granted from taxation, which last-mentioned lands shall be exempt from taxation so long, and to such an extent, as is or may be provided in the act of Congress granting the same.

Third. In order that payment of the debts and liabilities contracted or incurred by and in behalf of the Territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an act of Congress approved February 22, 1889, entitled "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," the states of North Dakota and South Dakota, by proceedings of a joint commission, duly appointed under said act, the sessions whereof were held at Bismarck in said State of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the States of North Dakota and South Dakota, respectively, to-wit:

This agreement shall take effect and be in force from and after the admission into the Union, as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

The words "State of North Dakota," whenever used in this agreement, shall be taken to mean the Territory of North Dakota in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words "State of South Dakota," whenever used in this agreement, shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

The said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of North Dakota, and shall pay all warrants issued under and by virtue of that certain Act of the Legislative Assembly of the Territory of Dakota, approved March 8, 1889, entitled "An Act to provide for

the refunding of outstanding warrants drawn on the Capitol Building Fund."

The said State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

That is to say: The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for Insane at Jamestown, North Dakota, the face aggregate of which is \$266,000; also, bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is \$96,700; also, bonds issued on account of the Penitentiary at Bismarck, North Dakota, the face aggregate of which is \$93,600; also, refunding Capitol Building warrants dated April 1, 1889, \$83,507.46.

And the State of South Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is \$210,000; also, bonds issued on account of the School for Deaf Mutes, at Sioux Falls, South Dakota, the face aggregate of which is \$51,000; also, bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is \$75,000; also, bonds issued on account of the Penitentiary at Sioux Falls, South Dakota, the face aggregate of which is \$94,300; also, bonds issued on account of the Agricultural College at Brookings, South Dakota, the face aggregate of which is \$97,500; also, bonds issued on account of the Normal School at Madison, South Dakota, the face aggregate of which is \$49,400; also, bonds issued on account of the School of Mines at Rapid City, South Dakota, the face aggregate of which is \$33,000; also, bonds issued on account of the Reform School at Plankinton, South Dakota, the face aggregate of which is \$30,000; also, bonds issued on account of the Normal School at Spearfish, South Dakota, the face aggregate of which is \$25,000; also, bonds issued on account of the Soldiers' Home at Hot Springs, South Dakota, the face aggregate of which is \$45,000.

The States of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore or hereafter incurred on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

The State of South Dakota shall pay to the State of North

Dakota \$46,500, on account of the excess of Territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all claims against the territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific Railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liabilities for or on account of the several matters hereinbefore referred to ; nor shall either state be called upon to pay or answer to any portion of liabilities hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the Territory of Dakota had such territory remained in existence, and which liability shall grow out of matters connected with any public institutions, grounds or buildings of the territory situated or located within the boundaries of the other state.

A final adjustment of accounts shall be made upon the following basis : North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 9, 1889, and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one half of all other expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed state of North Dakota, shall be credited to the State of North Dakota ; and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota ; except that any and all taxes on gross earnings paid into said treasury by railroad corporations since the 8th day of March, 1889, based upon earnings of years prior to 1888, under and by virtue of the act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, and entitled, " An act providing for the levy and collection of taxes upon property of railroad companies in this territory," being Chapter 107 of the Session Laws of 1889, (that is, the part of such sums going to the Territory), shall be equally divided between the states of North Dakota and South Dakota, and all taxes, heretofore or hereafter paid into said treasury under and by virtue

of the act last mentioned, based on the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the territorial treasury shall be divided as follows: North Dakota shall have so much thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota; each state shall be credited also with all balances of appropriations made by the Seventeenth Legislative Assembly of the Territory of Dakota for the account for the public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each state shall at the time of such final adjustment of accounts assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such state in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said state, as provided in this article; and if there should be a surplus at the time of such final adjustment, each state shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged it. And the state of North Dakota hereby obligates itself to pay such part of the debts and liabilities of the Territory of Dakota as is declared by the foregoing agreement to be its proportion thereof, the same as if such proportion had been originally created by said State of North Dakota as its own debt or liability.

SEC. 204. Jurisdiction is ceded to the United States over the military reservations of Fort Abraham Lincoln, Fort Buford, Fort Pembina and Fort Totten, heretofore declared by the President of the United States; provided, legal process, civil and criminal, of this state, shall extend over such reservations in all cases in which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

SEC. 205. The State of North Dakota hereby accepts the several grants of land granted by the United States to the State of North Dakota by an act of congress entitled "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the Union on equal footing with the original states, and to make donations of public lands to such states," under the conditions and

limitations therein mentioned ; reserving the right however to apply to congress for modifications of said conditions and limitations in case of necessity.

ARTICLE XVII.

MISCELLANEOUS.

SEC. 206. The name of this state shall be "North Dakota." The State of North Dakota shall consist of all the territory included within the following boundaries, to-wit: Commencing at a point in the main channel of the Red River of the North, where the forty-ninth degree of north latitude crosses the same; thence south up the main channel of the same and along the boundary line of the State of Minnesota to a point where the Seventh Standard parallel intersects the same; thence west along said Seventh Standard parallel produced due west to a point where it intersects the twenty-seventh meridian of longitude west from Washington; thence north on said meridian to a point where it intersects the forty-ninth degree of north latitude; thence east along said line to place of beginning.

SEC. 207. The following described seal is hereby declared to be and hereafter constituted the Great Seal of the State of North Dakota, to-wit: A tree in the open field, the trunk of which is surrounded by three bundles of wheat; on the right a plow, anvil and sledge; on the left a bow crossed with three arrows, and an Indian on horseback pursuing a buffalo towards the setting sun; the foliage of the tree arched by a half circle of forty-two stars, surrounded by the motto "Liberty and Union now and forever, one and inseparable;" the words "Great Seal" at the top; the words "State of North Dakota" at the bottom; "October 1st" on the left and "1889" on the right. The seal to be two and one half inches in diameter.

SEC. 208. The right of the debtor to enjoy the comforts and necessities of life shall be recognized by wholesome laws exempting from forced sale to all heads of families a homestead, the value of which shall be limited and defined by law, and a reasonable amount of personal property; the kind and value shall be fixed by law. This section shall not be construed to prevent liens against the homestead for labor done and materials furnished in the improvement thereof, in such manner as may be prescribed by law.

SEC. 209. The labor of children under twelve years of age, shall be prohibited in mines, factories and workshops in this state.

SEC. 210. All flowing streams and natural water courses shall forever remain the property of the state for mining, irrigating and manufacturing purposes.

SEC. 211. Members of the Legislative Assembly and judicial department except such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm as the case may be) that I will support the Constitution of the United States and the Constitution of the State of North Dakota; and that I will faithfully discharge the duties of the office of . . . according to the best of my ability, so help me God," (if an oath), "under pains and penalties of perjury," (if an affirmation), and no other oath, declaration, or test shall be required as a qualification for any office or public trust.

SEC. 212. The exchange of "black lists" between corporations shall be prohibited.

SEC. 213. The real and personal property of any woman in this state, acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property and shall not be liable for the debts of her husband.

ARTICLE XVIII.

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

SEC. 214. Until otherwise provided by law, the member of the House of Representatives of the United States apportioned to this state, shall be elected at large.

Until otherwise provided by law, the senatorial and representative districts shall be formed, and the senators and the representatives shall be apportioned as follows:

The First District shall consist of the townships of Walhalla, St. Joseph, Neche, Pembina, Bathgate, Carlisle, Joliet, Midland, Lincoln and Drayton, in the county of Pembina, and be entitled to one senator and two representatives.

The Second District shall consist of the townships of St. Thomas, Hamilton, Cavalier, Akra, Beaulieu, Thingvalla, Gardar, Park, Crystal, Elora and Lodoma, in the county of Pembina, and be entitled to one senator and two representatives.

The Third District shall consist of the townships of Perth, Latona, Adams, Silvesta, Cleveland, Morton, Vesta, Tiber, Medford, Vernon, Golden, Lampton, Eden, Rushford, Kensington, Dundee, Ops, Prairie Centre, Fertile, Park River and Glenwood, in the county of Walsh, and be entitled to one senator and two representatives.

The Fourth District shall consist of the townships of Forest River, Walsh Centre, Grafton, Farmington, Ardock, Village of Ardock, Harrison, City of Grafton, Oakwood, Martin, Walshville,

Pulaski, Acton, Minto and St. Andrews, in the county of Walsh, and be entitled to one senator and three representatives.

The Fifth District shall consist of the townships of Gilby, Johnstown, Straban, Wheatfield, Hegton, Arvilla, Avon, Northwood, Lind, Grace, Larimore, and the City of Larimore, Elm Grove, Agnes, Inkster, Elkmount, Oakwood, Niagara, Moraine, Logan and Loretta in the county of Grand Forks, and be entitled to one senator and two representatives.

The Sixth District shall consist of the Third, Fourth, Fifth and Sixth wards of the city of Grand Forks, as now constituted, and the townships of Falconer, Harvey, Turtle River, Ferry, Rye, Blooming, Meckinock, Lakeville and Levant in the county of Grand Forks, and be entitled to one senator and two representatives.

The Seventh District shall consist of the First and Second wards of the city of Grand Forks, as now constituted, and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Bentrui, Americus, Michigan, Union and Washington, in the county of Grand Forks, and be entitled to one senator and two representatives.

The Eighth District shall consist of the county of Traill and be entitled to one senator and four representatives.

The Ninth District shall consist of the township of Fargo and the City of Fargo in the County of Cass and the fractional township number 139 in range 48, and be entitled to one senator and two representatives.

The Tenth District shall consist of the townships of Noble, Wiser, Harwood, Reed, Barnes, Stanley, Pleasant, Kenyon, Gardner, Berlin, Raymond, Mapleton, Warren, Norman, Elm River, Harmony, Durbin, Addison, Davenport, Casselton and the City of Casselton, in the County of Cass, and be entitled to one senator and three representatives.

The Eleventh District shall consist of the townships of Webster, Rush River, Hunter, Arthur, Amenias, Everest, Maple River, Leonard, Dows, Erie, Empire, Wheatland, Gill, Walburg, Watson, Page, Rich, Ayr, Buffalo, Howes, Eldrid, Highland, Rochester, Lake, Cornell, Tower, Hill, Clifton and Pontiac, in the county of Cass, and be entitled to one senator and three representatives.

The Twelfth District shall consist of the county of Richland and be entitled to one senator and three representatives.

The Thirteenth District shall consist of the county of Sargent and be entitled to one senator and three representatives.

The Fourteenth District shall consist of the county of Ransom and be entitled to one senator and two representatives.

The Fifteenth District shall consist of the county of Barnes and be entitled to one senator and two representatives.

The Sixteenth District shall consist of the counties of Steele and Griggs and be entitled to one senator and two representatives.

The Seventeenth District shall consist of the county of Nelson and be entitled to one senator and one representative.

The Eighteenth District shall consist of the county of Cavalier and be entitled to one senator and two representatives.

The Nineteenth District shall consist of the counties of Towner and Rolette and be entitled to one senator and one representative.

The Twentieth District shall consist of the counties of Benson and Pierce and be entitled to one senator and two representatives.

The Twenty-first District shall consist of the county of Ramsey and be entitled to one senator and two representatives.

The Twenty-second District shall consist of the counties of Eddy, Foster and Wells and be entitled to one senator and two representatives.

The Twenty-third District shall consist of the county of Stutsman, and be entitled to one senator and two representatives.

The Twenty-fourth District shall consist of the county of La Moure, and be entitled to one senator and one representative.

The Twenty-fifth District shall consist of the county of Dickey, and be entitled to one senator and two representatives.

The Twenty-sixth District shall consist of the counties of Emmons, McIntosh, Logan and Kidder, and be entitled to one senator and two representatives.

The Twenty-seventh District shall consist of the county of Burleigh, and be entitled to one senator and two representatives.

The Twenty-eighth District shall consist of the counties of Bottineau and McHenry and be entitled to one senator and one representative.

The Twenty-ninth District shall consist of the counties of Ward, McLean, and all the unorganized counties lying north of the Missouri River, and be entitled to one senator and one representative.

The Thirtieth District shall consist of the counties of Morton and Oliver, and be entitled to one senator and two representatives.

The Thirty-first District shall consist of the counties of Mercer, Stark and Billings, and all the unorganized counties lying south of the Missouri River, and be entitled to one senator and one representative.

ARTICLE XIX.

PUBLIC INSTITUTIONS.

SEC. 215. The following public institutions of the state are permanently located at the places hereinafter named, each to have the lands specifically granted to it by the United States in the Act of Congress approved February 22, 1889, to be disposed of and used in such manner as the Legislative Assembly may prescribe, subject to the limitations provided in the article on school and public lands contained in this Constitution.

First. The seat of government at the city of Bismarck in the county of Burleigh.

Second. The state university and the school of mines at the city of Grand Forks, in the county of Grand Forks.

Third. The agricultural college at the city of Fargo in the county of Cass.

Fourth. A state normal school at the city of Valley City, in the county of Barnes; and the Legislative Assembly in apportioning the grant of eighty thousand acres of land for normal schools made in the Act of Congress referred to shall grant to the said normal school at Valley City as aforementioned, fifty thousand (50,000) acres, and said lands are hereby appropriated to said institution for that purpose.

Fifth. The deaf and dumb asylum at the city of Devils Lake, in the county of Ramsey.

Sixth. A state reform school at the city of Mandan, in the county of Morton.

Seventh. A state normal school at the city of Mayville, in the county of Traill; and the Legislative Assembly in apportioning the grant of land made by Congress, in the act aforesaid for state normal schools, shall assign thirty thousand acres to the institution hereby located at Mayville, and said lands are hereby appropriated for said purpose.

Eighth. A state hospital for the insane and an institution for the feeble-minded in connection therewith, at the city of Jamestown, in the county of Stutsman. And the Legislative Assembly shall appropriate twenty thousand acres of the grant of land made by the act of Congress aforesaid for "other educational and charitable institutions" to the benefit and for the endowment of said institution.

SEC. 216. The following named public institutions are hereby permanently located as hereinafter provided, each to have so much of the remaining grant of one hundred and seventy thousand acres

of land made by the United States for "other educational and charitable institutions," as is allotted below, viz :

First. A soldiers' home, when located, or such other charitable institutions as the Legislative Assembly may determine, at Lisbon, in the county of Ransom with a grant of forty thousand acres of land.

Second. A blind asylum, or such other institution as the Legislative Assembly may determine, at such place in the county of Pembina as the qualified electors of said county may determine at an election to be held as prescribed by the Legislative Assembly, with a grant of thirty thousand acres.

Third. An industrial school and school for manual training, or such other educational or charitable institution as the Legislative Assembly may provide, at the town of Ellendale in the county of Dickey, with a grant of forty thousand acres.

Fourth. A school of forestry or such other institution as the Legislative Assembly may determine, at such place in one of the counties of McHenry, Ward, Bottineau, or Rolette, as the electors of said counties may determine by an election for that purpose, to be held as provided by the Legislative Assembly.

Fifth. A scientific school, or such other educational or charitable institution as the Legislative Assembly may prescribe, at the city of Wahpeton, county of Richland, with a grant of forty thousand acres.

Provided, that no other institution of a character similar to any one of those located by this article shall be established or maintained without a revision of this Constitution.

ARTICLE XX.

PROHIBITION.

To be submitted to a separate vote of the people as provided by the schedule and ordinance.

SEC. 217. No person, association or corporation shall within this state, manufacture for sale or gift, any intoxicating liquors, and no person, association or corporation shall import any of the same for sale or gift, or keep or sell or offer the same for sale or gift, barter or trade as a beverage. The Legislative Assembly shall by law prescribe regulations for the enforcement of the provisions of this article, and shall thereby provide suitable penalties for the violation thereof.

SCHEDULE.

SECTION 1. That no inconvenience may arise from a change of territorial government to state government, it is declared that all writs, actions, prosecutions, claims and rights of individuals and bodies corporate shall continue as if no change of government had taken place, and all processess which may, before the organization of the judicial department under this Constitution be issued under the authority of the Territory of Dakota shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Dakota, which are not repugnant to this Constitution, shall remain in force until they expire by their own limitations or be altered or repealed.

SEC. 3. All fines, penalties, forfeitures and escheats accruing to the Territory of Dakota shall accrue to the use of the States of North Dakota and South Dakota, and may be sued for and recovered by either of said states as necessity may require.

SEC. 4. All recognizances, bonds, obligations or other undertakings heretofore taken, or which may be taken before the organization of the judicial department under this Constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the State; all bonds, obligations or other undertakings executed to this territory, or to any officer in his official capacity, shall pass over to the proper state authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; all criminal prosecutions and penal actions which have arisen, or may arise before the organization of the judicial department, under this Constitution, or which shall then be pending, may be prosecuted to judgment and execution in the name of the State.

SEC. 5. All property, real and personal, and credits, claims and choses in action belonging to the Territory of Dakota at the time of the adoption of this Constitution, shall be vested in and become the property of the States of North Dakota and South Dakota.

SEC. 6. Whenever any two of the judges of the Supreme court of the State, elected under the provisions of this Constitution shall have qualified in their offices, the causes then pending in the Supreme court of the Territory on appeal or writ of error from the district courts of any county or subdivision within the limits of this state, and the papers, records and proceedings of said court shall pass into the jurisdiction and possession of the supreme court of the state, except as otherwise provided in the enabling act of Congress, and until so superseded the supreme court of the territory and the

judges thereof shall continue, with like powers and jurisdiction, as if this Constitution had not been adopted. Whenever the judge of the district court of any district elected under the provisions of this Constitution shall have qualified in his office, the several causes then pending in the district court of the territory within any county in such district, and the records, papers and proceedings of said district court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the district court of the state for such county, except as provided in the enabling act of Congress, and until the district courts of this territory shall be superseded in the manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and power to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the territory.

SEC. 7. Until otherwise provided by law, the seals now in use in the supreme and district courts of this territory are hereby declared to be the seals of the supreme and district courts respectively of the state.

SEC. 8. Whenever this Constitution shall go into effect, the books, records and papers and proceedings of the probate court in each county, and all causes and matters of administration and other matters pending therein, shall pass into the jurisdiction and possession of the county court of the same county, and the said county court shall proceed to final decree or judgment, order or other determination in the said several matters and causes as the said probate court might have done if this Constitution had not been adopted. And until the election and qualification of the judges of the county courts provided for in this Constitution, the probate judges shall act as the judges of the county courts within their respective counties, and the seal of the probate court in each county shall be the seal of the county court therein, until the said court shall have procured a proper seal.

SEC. 9. The terms "probate court" or "probate judge," whenever occurring in the statutes of the territory, shall, after this Constitution goes into effect, be held to apply to the county court or county judge.

SEC. 10. All territorial, county and precinct officers, who may be in office at the time this Constitution takes effect, whether holding their offices under the authority of the United States or of the territory, shall hold and exercise their respective offices, and perform the duties thereof as prescribed in this Constitution, until their successors shall be elected and qualified in accordance with the provisions of this Constitution, and official bonds of all such

officers shall continue in full force and effect as though this Constitution had not been adopted; and such officers for their term of service, under this Constitution, shall receive the same salaries and compensation as is by this Constitution, or by the laws of the territory, provided for like officers; provided, that the county and precinct officers shall hold their offices for the term for which they were elected. There shall be elected in each organized county in this state, at the election to be held for the ratification of this Constitution, a clerk of the district court, who shall hold his office under said election until his successor is duly elected and qualified. The judges of the district court shall have power to appoint state's attorneys in any organized county where no such attorneys have been elected, which appointment shall continue until the general election to be held in 1890 and until his successor is elected and qualified.

SEC. 11. This Constitution shall take effect and be in full force immediately upon the admission of the territory as a state.

SEC. 12. Immediately upon the adjournment of this Convention, the Governor of the Territory, or in case of his absence or failure to act, the Secretary of the Territory, or in case of his absence or failure to act, the President of the Constitutional Convention shall issue a proclamation, which shall be published and a copy thereof mailed to the chairman of the board of county commissioners of each county, calling an election by the people on the first Tuesday in October, 1889, of all the state and district officers created and made elective by this Constitution. This Constitution shall be submitted for adoption or rejection at said election to a vote of the electors qualified by the laws of this territory to vote at all elections. At the election provided for herein the qualified voters shall vote directly for or against this Constitution and for or against the article separately submitted.

SEC. 13. The board of commissioners of the several counties shall thereupon order such election for said day, and shall cause notice thereof to be given for the period of twenty days in the manner provided by law. Every qualified elector of the territory, at the date of said election, shall be entitled to vote thereat. Said election shall be conducted in all respects in the same manner as provided by the laws of the territory for general elections, and the returns for all state and district officers, and members of the Legislative Assembly, shall be made to the canvassing board hereinafter provided for.

SEC. 14. The Governor, Secretary and Chief Justice, or a majority of them, shall constitute a board of canvassers to canvass



the vote of such election for all state and district officers and members of the Legislative Assembly. The said board shall assemble at the seat of government of the territory on the fifteenth day after the day of such election (or on the following day if such day fall on Sunday), and proceed to canvass the votes on the adoption of this Constitution and for all state and district officers and members of the Legislative Assembly in the manner provided by the laws of the territory for canvassing the vote for Delegate to Congress, and they shall issue certificates of election to the persons found to be elected to said offices severally, and shall make and file with the Secretary of the territory an abstract certified by them, of the number of votes cast for or against the adoption of the Constitution, and for each person for each of said offices and of the total number of votes cast in each county.

SEC. 15. All officers elected at such election shall, within sixty days after the date of the executive proclamation admitting the State of North Dakota into the Union, take the oath required by this Constitution, and give the same bond required by the law of the territory to be given in case of like officers of the territory and districts, and shall thereupon enter upon the duties of their respective offices; but the Legislative Assembly may require by law all such officers to give other or further bonds as a condition of their continuance in office.

SEC. 16. The judges of the district court who shall be elected at the election herein provided for shall hold their offices until the first Monday in January, 1893, and until their successors are elected and qualified. All other state officers, except judges of the supreme court, who shall be elected at the election herein provided for, shall hold their offices until the first Monday in January, 1891, and until their successors are elected and qualified. Until otherwise provided by law the judges of the supreme court shall receive for their services the salary of four thousand dollars per annum, payable quarterly; and the district judges shall receive for their services the salary of three thousand dollars per annum, payable quarterly.

SEC. 17. The Governor elect of the state immediately upon his qualifying and entering upon the duties of his office shall issue his proclamation convening the Legislative Assembly of the state at the seat of government, on a day to be named in said proclamation, and which shall not be less than fifteen nor more than forty days after the date of such proclamation. And said Legislative Assembly after organizing shall proceed to elect two senators of the United States for the State of North Dakota; and at said election the two persons who shall receive a majority of all the votes cast by the

said senators and representatives shall be elected such United States senators. And the presiding officers of the senate and house of representatives shall each certify the election to the Governor and Secretary of the State of North Dakota; and the Governor and Secretary of State shall certify the elections of such senators as provided by law.

SEC. 18. At the election herein provided for there shall be elected a representative to the Fifty-first Congress of the United States, by the electors of the state at large.

SEC. 19. It is hereby made the duty of the Legislative Assembly at its first session to provide for the payment of all debts and indebtedness authorized to be incurred by the Constitutional Convention of North Dakota, which shall remain unpaid after the appropriation made by Congress for the same shall have been exhausted.

SEC. 20. There shall be submitted at the same election at which this Constitution is submitted for rejection or adoption, Article 20 entitled "Prohibition," and persons who desire to vote for said article shall have written or printed on their ballots "For Prohibition," and all persons desiring to vote against said article shall have written or printed on their ballots "Against Prohibition." If it shall appear according to the returns herein provided for that a majority of all the votes cast at said election for and against prohibition are for prohibition, then said Article 20 shall be and form a part of this Constitution and be in full force and effect as such from the date of the admission of this state into the Union. But if a majority of said votes shall appear according to said returns to be against prohibition, then said Article 20 shall be null and void and shall not be a part of this Constitution.

SEC. 21. The agreement made by the Joint Commission of the Constitutional Conventions of North Dakota and South Dakota concerning the records, books and archives of the Territory of Dakota, is hereby ratified and confirmed; which agreement is in the words following: That is to say:

The following books, records and archives of the Territory of Dakota shall be the property of North Dakota, to wit: All records, books and archives in the offices of the Governor and Secretary of the Territory (except records of Articles of Incorporation of Domestic Corporations, returns of election of Delegates to the Constitutional Convention of 1889 for South Dakota, returns of elections held under the so-called Local Option Law, in counties within the limits of South Dakota, bonds of Notaries Public appointed for counties within the limits of South Dakota, papers

relating to the organization of counties situate within the limits of South Dakota, all which records and archives are a part of the records and archives of said Secretary's office; excepting also, census returns from counties situate within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all which are a part of the records and archives of said Governor's office). And the following records, books and archives shall also be the property of the State of North Dakota, to wit:

Vouchers in the office or custody of the Auditor of this Territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of North Dakota. One warrant register in the office of the Treasurer of this Territory, being a record of warrants issued under and by virtue of Chapter 24 of the laws enacted by the Eighteenth Legislative Assembly of Dakota Territory. All letters, receipts and vouchers in the same office now filed by counties and pertaining to counties within the limits of North Dakota. Paid and canceled coupons in the same office representing interest on bonds, which said State of North Dakota is to assume and pay. Reports of gross earnings of the year 1888 in the same office, made by corporations operating lines of railroads situated wholly or mainly within the limits of North Dakota. Records and papers of the office of the Public Examiner of the second district of the territory. Records and papers of the office of the District Board of Agriculture. Records and papers in the office of the Board of Pharmacy of the district of North Dakota.

All records, books and archives of the Territory of Dakota which it is not herein agreed shall be the property of North Dakota, shall be the property of South Dakota.

The following books shall be copied and the copies shall be the property of North Dakota and the cost of such copies shall be borne equally by said States of North Dakota and South Dakota. That is to say:

Appropriation Ledger for years ending November, 1889-90—one volume.

The Auditor's Current Warrant Register—one volume.

Insurance Record for 1889—one volume.

Treasurer's Cash Book—"D."

Assessment Ledger—"B."

Dakota Territory Bond Register—one volume.

Treasurer's Current Ledger—one volume.

The originals of the foregoing volumes which are to be copied shall at any time after such copying shall have been completed be

delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives which it is hereby agreed shall be the property of South Dakota, shall remain at the Capitol of North Dakota until demanded by the Legislature of the State of South Dakota, and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts of such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives, which it is agreed shall be the property of North Dakota, as said State of South Dakota shall desire to have copies or abstracts of.

The expense of all copies or abstracts of records, books and archives which it is herein agreed may be made, shall be borne equally by said two states.

SEC. 22. Should the counties containing lands which form a part of the grant of lands made by Congress to the Northern Pacific Railroad Company be compelled by law to refund moneys paid for such lands or any of them by purchasers thereof at tax sales thereof, based upon taxes illegally levied upon said lands, then and in that case the State of North Dakota shall appropriate the sum of \$25,000, or so much thereof as may be necessary to reimburse said counties for the amount so received from said illegal tax sales and paid by said counties into the treasury of Dakota Territory.

SEC. 23. This Constitution shall after its enrollment be signed by the President of this Convention and the Chief Clerk thereof and such delegates as desire to sign the same, whereupon it shall be deposited in the office of the Secretary of the Territory, where it may be signed at any time by any delegate who shall be prevented from signing the same for any reason at the time of the adjournment of this convention.

SEC. 24. In case the territorial officers of the Territory of Dakota, or any of them who are now required by law to report to the Governor of the Territory, annually or biennially, shall prepare and publish such reports covering the transactions of their offices up to the time of the admission of the State of North Dakota into the Union, the Legislative Assembly shall make sufficient appropriations to pay one-half of the cost of such publication.

SEC. 25. The Governor and Secretary of the Territory are hereby authorized to make arrangements for the meeting of the first Legislative Assembly, and the inauguration of the state government.

SEC. 26. The Legislative Assembly shall provide for the editing, and for the publication, in an independent volume, of this Constitution, as soon as it shall take effect, and whenever it shall be altered or amended, and shall cause to be published in the same volume the Declaration of Independence, the Constitution of the United States and the Enabling Act.

Done at Bismarck, Dakota, in open convention, this 17th day of August, A. D. 1889.

AMENDMENT TO THE CONSTITUTION OF NORTH DAKOTA.

[Ratified by popular vote, Nov. 6, 1894.]

ARTICLE I.

The Legislative Assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets.



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